

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DUMONT BROTHERS, INC.,
505 ROCHESTER INC. BOTH
D/B/A ROCHESTER INN &
HARDWOOD GRILL INDIVIDUALLY
AND ON BEHALF OF A CLASS OF
SIMILARLY SITUATED PERSONS,

CIVIL ACTION NO. 2:20-cv-997

Plaintiffs,

v.

NAUTILUS INSURANCE COMPANY,

Defendant.

NOTICE OF REMOVAL

NOW, comes Defendant, Nautilus Insurance Company (“Nautilus”), by and through its attorneys, Spilman Thomas and Battle, PLLC, and files the within Notice of Removal of this action from the Court of Common Pleas of Allegheny County to the United States District Court for the Western District of Pennsylvania pursuant to 28 U.S.C. §§ 1332, 1441, and 2201. As set forth more fully below, this Honorable Court has original diversity jurisdiction over this civil action and this matter is properly removed to the District Court in accordance with the procedures provided at 28 U.S.C. § 1446. In further support of this Notice of Removal, Nautilus states as follows:

1. Plaintiffs, DuMont Brothers, Inc. ("DuMont") and 505 Rochester, Inc., d/b/a Rochester Inn & Hardwood Grill ("Rochester Inn"), initiated this action on June 5, 2020 by filing a pleading styled as a "Class Action Complaint" (the "Complaint") in the Court of Common Pleas of Allegheny County, Pennsylvania, at Docket No. GD-20-006542. A true and correct copy of the Complaint is attached hereto at Exhibit 1.

2. Attached as Exhibit B to the Complaint is a copy of insurance policy number NN1000793 (the "Policy") issued by Nautilus to Plaintiffs.

3. The Complaint seeks declaratory and injunctive relief related to a previous denial of insurance coverage by Nautilus for business income, extra expense, contamination, civil authority, and other coverages under the Policy, and seeks similar relief for putative class members insured by Nautilus. Plaintiffs sought coverage due to impacts on their business due to COVID-19 and the resulting March 19, 2020 order of Gov. Tom Wolf requiring closure of non-life sustaining businesses. (Exhibit 1, ¶¶ 30-32).

4. Despite pleading a single count for "Declaratory Relief," all factual and material allegations of the Complaint are dependent upon an allegation that Nautilus breached its contract with Plaintiffs by denying coverage for Plaintiffs' COVID-19 related losses. See Exhibit 1.

5. The dispute between the parties arose after Plaintiffs tendered the aforementioned claim for coverage to Nautilus on May 1, 2020. Nautilus subsequently denied coverage following an investigation on May 7, 2020. (Exhibit 1, ¶ 33, Exhibit C).

6. The Complaint expressly alleges that the "denial and refusal to acknowledge coverage" to Plaintiffs are material breaches of the Policy. (Exhibit 1, ¶ 72). The Complaint also alleges the same breach of the insurance contract on behalf of the purported class. (Exhibit 1, ¶ 74).

7. The "common questions of law and fact" alleged by Plaintiffs include: "The denial or refusal to acknowledge coverage is illegal and a breach of the terms and provisions of the policy at issue." (Exhibit 1, ¶ 47 (e)).

The Removal Request is Timely and All Pleadings, Process, and Orders Filed in Connection with the Complaint are Present

8. On June 17, 2020, Plaintiffs filed a Proof of Service suggesting that service of the Complaint was completed via certified mail. A true and correct copy of the Proof of Service is attached hereto as Exhibit 2.

9. The certified mail receipt attached to Exhibit 2 is illegible; however, it is believed and therefore averred that the purported date of delivery printed on the certified mail receipt is June 9, 2020.

10. This Notice of Removal is timely under 28 U.S.C. § 1446(b). The Complaint was filed on June 5, 2020, and served on June 9, 2020. Because removal is made within thirty days of service, this Notice of Removal is timely. See Exhibits 1, 3.

11. A true and correct copy of the docket from the Court of Common Pleas of Allegheny County is attached hereto as Exhibit 3.

12. As of the date of this filing, the Complaint and Proof of Service (Exhibits 1 and 2) comprise all the pleadings, process, and orders filed in connection with the Complaint. See Exhibit 3. As such, the requirements of 28 U.S.C. § 1446(a) have been satisfied.

Citizenship of the Parties

13. DuMont is a Pennsylvania corporation, organized and existing under the laws of the Commonwealth of Pennsylvania, with a registered corporate address of 499 Huron Avenue, Pittsburgh, Allegheny County Pennsylvania, 15237. A true and correct copy of a printout from the Pennsylvania Department of State, Corporations Bureau, that depicts the corporate organization and history of DuMont is attached hereto as Exhibit 4.

14. The Rochester Inn is a Pennsylvania corporation, organized and existing under the laws of the Commonwealth of Pennsylvania, with a registered corporate address of 505 Rochester Road, Pittsburgh, Allegheny County, Pennsylvania, 15237. A true and correct copy of a printout from the Pennsylvania Department of State, Corporations Bureau, that depicts the corporate organization and history of the Rochester Inn is attached hereto as Exhibit 5.

15. The principal place of business for both DuMont and Rochester Inn is 505 Rochester Road, Pittsburgh, Allegheny County, Pennsylvania, 15237.

16. The verified Complaint expressly confirms that the place of organization, place of citizenship, and principal place of business of Plaintiffs is solely and exclusively in Pennsylvania. (See, Exhibit 1, ¶ 1).

17. As such, all Plaintiffs are citizens of the Commonwealth of Pennsylvania.

18. Defendant Nautilus Insurance Company is a corporation organized under the laws of the State of Arizona, with a principal place of business located at 7233 Butherus Drive, Scottsdale, Arizona, 85260.

19. Nautilus is a citizen of the State of Arizona and does not maintain an office in the Commonwealth of Pennsylvania.

20. Nautilus is the sole defendant in this matter.

21. Based on the foregoing, complete diversity of the parties exists pursuant to 28 U.S.C. § 1332, *et seq.*

Amount in Controversy

22. Section 1332 confers original jurisdiction over all civil matters where the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and the claim

is between citizens of different states. As stated above, the diversity requirement in this case is satisfied.

23. A notice of removal may "assert the amount in controversy if the initial pleading seeks nonmonetary relief." 28 U.S.C. 1332(A)(i).

24. Plaintiffs in their Complaint allege a single count for declaratory relief. That requested declaration, however, is that Nautilus has an obligation to provide coverage to Plaintiffs for their COVID-19 related losses. Indeed, the civil cover sheet attached to the Complaint clearly requests money damages and states that the amount at issue is in excess of the compulsory arbitration monetary limit of \$35,000 (Exhibit 1).

25. Further, other information Plaintiffs provided to Nautilus makes clear that the value of Plaintiffs' claim exceeds the amount of \$75,000. On March 15, 2020, Davies & Davies Insurance, Inc., Plaintiffs' insurance agent, submitted to Nautilus a Property Loss Notice (the "Loss Notice") on behalf of Plaintiffs in the amount of \$233,515.00 for "Loss [sic] profit due to Covid-19 shut-down." A true and correct copy of the Loss Notice is attached hereto as Exhibit 6.

26. The Loss Notice indicates that Todd J. DuMont reported the claim to Davies & Davies Insurance, Inc. See, Exhibit 6.

27. Todd J. DuMont, upon information and belief, is an officer and owner of both DuMont and Rochester Inn and executed the Complaint Verification as a "representative" of both entities. (Exhibits 1, 4, and 5).

28. Accordingly, the amount in controversy—based upon the Loss Notice demand of \$233,515.00—is in excess of the \$75,000 jurisdictional threshold set forth in 28 U.S.C. § 1332(a) and exceeds the amount in controversy threshold per 28 U.S.C. § 1332(a).

29. Nautilus also can rely upon the face value of its policy to establish an amount in controversy. The United States Court of Appeals for the Third Circuit measures the amount in controversy in declaratory and injunctive actions by reference to "the value of the rights which the plaintiff seeks to protect." Columbia Gas Transmission Corp. v. Tarbuck, 62 F.3d 538, 539 (3d Cir. 1995). See also, Cty. of Wash. v. United States Bank Nat'l Ass'n, No. 11-1405, 2012 U.S. Dist. LEXIS 125748, at *54 (W.D. Pa. Aug. 17, 2012) (internal citation omitted).

30. The face value of insurance policies can also be used to establish the amount in controversy. See Sallada v. Nationwide Mut. Ins. Co., Civil No. 1:CV-99-0381, 1999 U.S. Dist. LEXIS 21670, at *5 (M.D. Pa. June 2, 1999) (internal citation omitted) ("Where plaintiffs seek equitable relief pertaining to the enforcement of insurance policies, the face value of the policy is the measure of the amount in controversy.") (emphasis added).

31. The property coverage under the Nautilus Policy features a coverage limit of \$300,000 for business income claims such as that asserted by Plaintiffs.

32. As such, the amount in controversy requirement of 28 U.S.C. § 1332 is satisfied.

**Removal is Appropriate and Necessary in this Case, as this Court
Has Original Jurisdiction**

33. Plaintiffs' assertion of a single count seeking a declaration that Nautilus must cover its claim, rather than asserting a breach of contract claim for the \$233,515.00 it represents its claim is worth, does not control the Court's jurisdiction and/or deprive Nautilus of its right to remove this matter to federal court. See generally United Jersey Banks v. Parell, 783 F.2d 360, 367 (3d Cir. 1986) (artful pleading cannot deprive a party of a federal forum) (citing 14A Wright & Miller, Federal Prac. and Proc. § 3722 at 270); Eitmann v. New Orleans Public Service, Inc., 730 F.2d 359, 365 (5th Cir. 1984) (plaintiff cannot defeat removal by artful pleading).

34. The facts alleged and the relief sought in the Complaint expose the true nature of the "declaratory judgment" claim for what it is: a breach of contract claim for a past harm. Schodle v. State Farm Mut. Auto. Ins. Co., No. 17-407, 2017 WL 1177133, at *2 (E.D. Pa. Mar. 30, 2017) (denying remand where "breach of contract claim is the essence of this lawsuit," such that the court "need not decide if it is an effort at artful pleading designed to defeat federal jurisdiction"); Rarick v. Federated Serv. Ins. Co., 852 F.3d 223, 229 (3d Cir. 2017) (citing the court's virtually unflagging obligation to hear independent legal claims); see also Walsh/Granite JV v. HDR Eng'g, Inc., No. 2:17-558, 2017 WL 11485584, at *2 (W.D. Pa. Nov. 7, 2017) (acknowledging the independent nature of breach of contract and declaratory judgment claims).

35. The Complaint alleges that the "denial and refusal to acknowledge coverage" to Plaintiffs are material breaches of the Policy and that "[t]he denial or refusal to acknowledge coverage is illegal and a breach of the terms and provisions of the policy at issue." (Exhibit 1, ¶¶ 47 (e), 72, 74).

36. Breach of contract claims are generally independent from declaratory judgment claims concerning contract provisions because the breach of contract claim can be decided without need for a declaration. See Walsh/Granite JV, 2017 WL 11485584, at *2. ("Legal claims are independent of the declaratory judgment claim because 'they are alone sufficient to invoke the court's subject matter jurisdiction and can be adjudicated without the requested declaratory relief.'")(quoting Rarick, 852 F.3d at 228). The same is true of claims for breach of an insurance policy. Schodle, 2017 WL 1177133, at *2.

37. In the context of an insured seeking a declaration that an insurer must pay an insurance claim that the insurer has denied, the request for damages is independent of any claim for declaratory relief and is not subject to abstention in the absence of a parallel state court

proceeding. Griggs Rd., L.P. v. Selective Way Ins. Co. of Am., No. 4:17-cv-214, 2017 WL 2645542, at *4 (M.D. Pa. June 19, 2017) (citing Schodle, 2017 WL 1177133, at *2 ("because Plaintiffs are undoubtedly seeking monetary relief they aver is owed under the policy, a resolution of the instant controversy can be fully accomplished through the adjudication of the breach of contract claim.")). No parallel state court proceeding exists here.

38. Declaratory judgments are intended to proclaim that one party is liable to another. Andela v. Admin. Office of U.S. Courts, 569 F. App'x 80, 83 (3d Cir. 2014).

39. Indeed, the alleged "declaratory relief" sought by Plaintiffs is not a prospective remedy to establish the rights and responsibilities of the parties going forward (which is what it should be). Plaintiffs' declaratory judgment count seeks to litigate an alleged breach of contract that already occurred.

40. As such, removal of this matter is appropriate and this Court's exercise of jurisdiction is mandatory.

This Court Should Not Abstain Even if Jurisdiction is Discretionary

41. In the event this Honorable Court decides that exercising jurisdiction is discretionary pursuant to the Declaratory Judgment Act (28 U.S.C. § 2201) and the holdings in Reifer v. Westport Ins. Corp., 751 F.3d 129, 146 (3d Cir. 2014), and Kelly v. Maxum Specialty Ins. Group, 868 F.3d 274, 282 (3d Cir. 2017), abstention nonetheless would be inappropriate.

42. The very first issue this Honorable Court should note is the lack of a parallel state proceeding that would interfere with removal. On some occasions, an insurance coverage declaratory judgment action will involve liability insurance and seek a declaration whether an insurer must defend a party in an underlying state-court proceeding. Here, by contrast, the dispute

involves a claim seeking coverage under first-party property policy, and does not relate to an underlying or parallel case pending in state court. Although the existence of a parallel state proceeding is but one factor for courts to consider, it is a significant factor that is treated with "increased emphasis." Reifer, 751 F.3d at 144; see also Sherwin-Williams Co. v. Holmes Cty., 343 F.3d 383, 394 (5th Cir. 2003) (noting that "the presence or absence of a pending parallel state proceeding is an important factor.").

43. The Kelly court also cited to eight factors courts should consider when exercising discretion to retain jurisdiction in actions seeking only declaratory relief:

- (1) the likelihood that a federal court declaration will resolve the uncertainty of obligation which gave rise to the controversy;
- (2) the convenience of the parties;
- (3) the public interest in settlement of the uncertainty of obligation;
- (4) the availability and relative convenience of other remedies;
- (5) a general policy of restraint when the same issues are pending in a state court;
- (6) avoidance of duplicative litigation;
- (7) prevention of the use of the declaratory action as a method of procedural fencing or as a means to provide another forum in a race for *res judicata*; and
- (8) (in the insurance context), an inherent conflict of interest between an insurer's duty to defend in a state court and its attempt to characterize that suit in federal court as falling within the scope of a policy exclusion.

Kelly at 283.

44. All of the Kelly factors are neutral or weigh in Nautilus's favor.

45. First, the federal court declaration will resolve the uncertainty that gave rise to the controversy. This is a matter of contract interpretation on an insurance policy, which is something

that a federal court is inherently equipped to do. There are no new or unresolved issues of state law to be addressed in this dispute. It is a breach of contract claim on an insurance policy.

46. Second, the convenience of the parties is met by federal jurisdiction, or this factor is at least neutral. The federal courthouse in Pittsburgh is physically three blocks from the City-County Building and ease of access is equal.

47. Third, the public interest will be satisfied with a declaration by a federal court.

48. Fourth, the availability and relative convenience of other remedies is neutral.

49. Fifth, the issue of Nautilus's obligations under the Policy is not pending in a state court.

50. Sixth, there is no concern about duplicative litigation, as Plaintiffs are asserting claims on their behalf and on a putative class. Therefore, all claims will be disposed in one proceeding, assuming a class is proper, which Nautilus denies.

51. Seventh, there is no issue of "procedural fencing" or a "race for *res judicata*." No improper motive exists.

52. Eighth, there is no conflict related to a duty to defend as this is a first-party claim and not a claim seeking a defense against a third-party's suit against the insured.

53. Based upon the foregoing, even if this Honorable Court were to exercise its discretion, removal is appropriate and necessary.

Similar Cases Have Been Removed to or were Originally Filed in this Court

54. Counsel for Plaintiffs filed a nearly identical complaint seeking nearly identical relief in the United States District Court for the Western District of Pennsylvania in an action styled as Windber Hospital v. Travelers, No. 3:20-cv-00080 (W.D. Pa.).

55. A recent case by counsel for Plaintiffs that involved nearly identical facts and legal issues was removed from the Court of Common Pleas of Allegheny County to this Court. See HTR Restaurants, Inc. et al. v. Erie Insurance Exchange, No. 2:20-CV-819 (W.D. Pa.).

56. Dozens of other cases are currently pending in the federal district courts in Pennsylvania in which the plaintiffs claim an entitlement to coverage for economic losses they have allegedly suffered as a result of the COVID-19 pandemic. See, e.g., ECF #24, LH Dining v. Admiral Indem. Co., No. 2:20-cv-1869 (E.D. Pa.) (listing 25 such suits pending in the Eastern District of Pennsylvania); Geneva Foreign & Sports, Inc. v. Erie Ins. Co. of N.Y., No. 1:20-cv-00093 (W.D. Pa.); The Lock Loft, LLC v. Erie Prop. & Cas. Co., No. 1:20-cv-122 (W.D. Pa.); Argenas v. Nationwide Mut. Ins. Co., 2:20-cv-770 (W.D. Pa.); Liberty Corner Tavern, Inc. v. Scottsdale Ins. Co., 2:20-cv-771 (W.D. Pa.); Close Enters., Inc. v. Erie Ins. Co., No. 1:20-cv-147 (W.D. Pa.); Kahn v. Penn Nat'l Ins. Co., No. 1:20-cv-00781 (M.D. Pa.).¹ Thus,

Reservation of Rights and Statement of Non Waiver

57. Nautilus does not waive any defenses available to it by filing this removal.

58. By filing this Notice of Removal, Nautilus does not admit any of the allegations in the Complaint and reserves all rights to challenge all aspects of that pleading, to include any request to form a class action.

¹ To ensure full disclosure to the Court, it should be noted that Judge Nora Barry Fischer remanded the matter of Dianoia's Eatery, LLC v. Motorists Mutual Insurance Company, No. 2:20-cv-706 (WD. Pa.), *sua sponte* on the issue of subject matter jurisdiction and pursuant to her discretion related to the Declaratory Judgment Act (28 U.S.C. § 2201). Plaintiffs referenced this decision in their Complaint (Exhibit 1, ¶ 5, Ex. A). However, the defendant in that matter filed a second removal on May 29, 2020, which was assigned to Judge Fischer and docketed as Case No. 2:20-cv-787. That removal notice more comprehensively explained the basis for federal jurisdiction. Notably, Judge Fischer **did not** abstain *sua sponte* on this second filing, despite the underlying complaint and the parties remaining the same. The plaintiff has filed a motion to remand in that case and the parties are briefing the issue.

Nautilus Has Complied With all Removal Procedures

59. In accordance with 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon all counsel of record as well as the Clerk of the Court for the Court of Common Pleas of Allegheny County.

60. In accordance with 28 U.S.C. § 1446(a), a true copy of all state court process, pleadings, and orders served on Nautilus are attached to this Notice of Removal.

61. Because this notice is timely, Plaintiffs and Nautilus are citizens of different states and the amount in controversy exceeds \$75,000, the United States District Court for the Western District of Pennsylvania has original jurisdiction over this matter. *See* 28 U.S.C. § 1332(a)(1).

62. As such, this matter may be removed to the United States District Court for the Western District of Pennsylvania pursuant to 28 U.S.C. § 1441, which permits removal of any civil action to the district courts that have original jurisdiction.

63. Alternatively, Nautilus submits that removal also is proper pursuant to 28 U.S.C. § 2201.²

² Additionally, and alternatively, Nautilus submits that removal is appropriate under the Class Action Fairness Act (28 U.S.C. § 1453) as there is minimal diversity, more than 100 class members, and the amount in controversy exceeds \$5,000,000. The number of insureds in Pennsylvania who hold Nautilus policies that Plaintiffs allege have similar business income coverage is 774, and the combined coverage limits of those policies is in excess of \$50,000,000. Of course, Nautilus disputes any liability on Plaintiffs' or the purported class's claims, and denies that a class action is appropriate. But Plaintiff's class action allegations provide another basis for removal to this Court.

WHEREFORE, Defendant, Nautilus Insurance Company removes this civil action to the United States District Court for the Western District of Pennsylvania, pursuant to 28 U.S.C. § 1441.

Respectfully submitted,

SPILMAN THOMAS & BATTLE, PLLC

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**Attorneys for Defendant Nautilus
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CERTIFICATE OF SERVICE

The undersigned does hereby certify that on July 2, 2020, the within **NOTICE OF REMOVAL** was filed electronically and will be served upon all counsel via first class mail, addressed as follows:

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/s/ Julian E. Neiser
Julian E. Neiser

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

DUMONT BROTHERS, INC.,
505 ROCHESTER INC. BOTH
D/B/A ROCHESTER INN &
HARDWOOD GRILL INDIVIDUALLY
AND ON BEHALF OF A CLASS OF
SIMILARLY SITUATED PERSONS
505 Rochester Road
Pittsburgh, PA 15237,

Plaintiff,

vs.

NAUTILUS INSURANCE COMPANY
7233 East Butherus Drive
Scottsdale, AZ 85260,

Defendant.

CIVIL DIVISION

No.: GD 20 6942

CLASS ACTION COMPLAINT

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CIVIL/FAMILY DIVISION
ALLEGHENY COUNTY PA

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GD-20-006542

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

DUMONT BROTHERS, INC.,
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HARDWOOD GRILL INDIVIDUALLY AND
ON BEHALF OF A CLASS OF
SIMILARLY SITUATED PERSONS
505 Rochester Road
Pittsburgh, PA 15237,

No.:

Plaintiff,

vs.

NAUTILUS INSURANCE COMPANY
7233 East Butherus Drive
Scottsdale, AZ 85260,

Defendant.

CLASS ACTION COMPLAINT

Parties

1. Plaintiff, Dumont Brothers, Inc., 505 Rochester, Inc. both d/b/a Rochester Inn & Hardwood Grill (“Rochester Inn”) is a corporation organized and existing in the Commonwealth of Pennsylvania with its principal place of business located at 505 Rochester Road, Pittsburgh, Allegheny County, Pennsylvania 15237; as such, Plaintiff is a citizen and resident of the Commonwealth of Pennsylvania.
2. Plaintiffs own and operate Rochester Inn, a restaurant in Pittsburgh, Pennsylvania.
3. Defendant, Nautilus Insurance Company (“Nautilus”) is a corporation organized

and existing under the laws of the State of Arizona with its principal place of business located at 7233 East Butherus Drive, Scottsdale, Arizona 85260, and is dully authorized to and regularly conducts business in the Commonwealth of Pennsylvania.

4. Defendant, Nautilus, regularly and routinely conducts business in Allegheny County, Pennsylvania.

5. The present action seeks declaratory and injunctive relief on behalf of the individual plaintiff, Rochester Inn, and on behalf of a class of similarly situated persons, under identical insurance policies issued by Defendant, Nautilus, in the Commonwealth of Pennsylvania. Federal diversity jurisdiction was declined by Judge Nora Barry Fischer in a similar case which was remanded *sua sponte* by the court. DiAnoia's Eatery, LLC v. Motorists Mutual Insurance Company, No. 20-706 (W.D. Pa. May 19, 2020). See Exhibit "A."

Insurance Coverage

6. At all times material hereto, there existed, in full force and effect, a Commercial Lines Policy (No. NN100793) ("Nautilus Policy") issued by Defendant, Nautilus, to Plaintiff, Rochester Inn, providing, *inter alia*, property, business, personal property, business income, extra expense, continuation, civil authority and additional coverages applicable to the losses, damages, and expenses clamed in this action. A true and correct copy of the Nautilus Policy is attached hereto and marked as Exhibit "B."

7. The Nautilus Policy was in effect and provided coverage for the period February 9, 2020 to February 9, 2021.

8. The Nautilus Policy provides, *inter alia*, Business Income, Extra Expense, Civil Authority and other coverages applicable to the losses, damages, and expenses caused by the COVID-19 pandemic and the related governmental orders.

9. The Nautilus Policy is an “All Risks” policy which provides coverage for losses, damages, and expenses to the insured premises unless specifically excluded.

10. The Nautilus Policy does not exclude the losses, damages, and expenses caused by the COVID-19 Pandemic.

11. The Nautilus Policy provides coverage for the losses, damages, and expenses incurred by Plaintiff, Rochester Inn, as a result of the COVID-19 Pandemic and the actions of the government in response thereto.

12. Plaintiff, Rochester Inn’s, claims arise out of a Pandemic.

COVID-19 Pandemic

13. The Center for Disease Control and the World Health Organization has for years warned of the possibility of an airborne virus which could cause a worldwide pandemic.

14. Coronavirus COVID-19 is a highly contagious airborne virus which has rapidly spread and continues to spread across the United States.

15. COVID-19 has been declared a pandemic by the World Health Organization.

16. The COVID-19 virus remains stable and transmittable in aerosols and various surfaces for prolonged periods of time, up to two to three days on some surfaces.

17. The COVID-19 virus is a public health crisis that has profoundly affected all aspects of society, including the ability of the public to congregate and gather.

18. The COVID-19 pandemic has been exacerbated by the fact that the virus infects and stays on the surfaces of objects and materials for prolonged periods.

19. The Center for Disease Control has issued guidance that gatherings of more than ten (10) people should not occur; such gatherings increase the danger of contracting the COVID19 virus.

20. On March 6, 2020, Governor Tom Wolf issued a Proclamation of Disaster Emergency as a result of the COVID-19 virus.

21. On March 19, 2020, Governor Tom Wolf issued an Order requiring all non-life sustaining businesses in the Commonwealth to cease operation and to close all physical locations.

20. On March 23, 2020, Governor Tom Wolf issued a Stay at Home Order for citizens of various counties including Allegheny County.

21. On March 23, 2020 the Pennsylvania Department of Health issued a similar Order noting that the “operation of non-life sustaining businesses present the opportunity for unnecessary gatherings, personal contact and interaction that will increase the risk of transmission and the risk of community spread of COVID-19.”

22. On April 1, 2020, Governor Tom Wolf extended the March 23, 2020 Stay at Home Order to the entire Commonwealth of Pennsylvania.

23. The COVID-19 virus, as evidenced by these Orders, causes damage to property, particularly in places of business, such as that of Plaintiff, Rochester Inn, and other similarly situated persons and organizations, where the operation of the business requires inter-action, gatherings and contact in areas where there exists a heightened risk of contamination by the COVID-19 virus.

Impact of COVID-19 Pandemic

24. As a result of the impact of the COVID-19 pandemic and the referenced Orders of the Governor, Plaintiff, Rochester Inn, has sustained partial loss of use of its premises, was forced stop all seated and eat-in food service as of March 19, 2020, has seen a near-total cessation of its business, and has been forced to furlough employees, thereby incurring losses, damages, and expenses.

25. As a result of the impact of the COVID-19 pandemic and the referenced Orders of the Governor, many similarly situated businesses have been ordered to close, thereby incurring losses, damages, and expenses similar to Plaintiff.

26. The business of Plaintiff, Rochester Inn, like many businesses, operates in “closed environment” where many persons, including employees and customers, cycle in and out thereby creating a risk of contamination to the insured premises.

27. As a result of the COVID-19 pandemic, the business of Plaintiff, Rochester Inn, like other similarly situated businesses, is susceptible to person to person, person to property, and property to person transmittal and contamination.

28. The COVID-19 pandemic has directly and adversely affected the business operations of Plaintiff, Rochester Inn, and other similarly situated businesses, by causing damage and the risk of further harm to the property and its occupants.

29. Plaintiff, Rochester Inn, and other similarly situated persons, have suffered Business Income, Civil Authority and other related losses, damages, and expenses which are covered by policies of insurance issued by Defendant, Nautilus.

Claim for Recovery

30. Plaintiff, Rochester Inn, has made claim upon Defendant, Nautilus, for recovery of losses, damages, and expenses caused by the COVID-19 pandemic and the referenced Orders.

31. Plaintiff, Rochester Inn, is entitled to a declaration that it is covered under the Nautilus Policy for, *inter alia*, business income, extra expense, contamination, civil authority and other coverages under the Nautilus Policy.

32. All similarly situated persons and organizations to whom Defendant, Nautilus, have issued policies of insurance are entitled to a declaration that he or she is covered for business income, extra expense, contamination, civil authority and other coverage under the policies issued by Defendant, Nautilus.

33. Defendant, Nautilus, has wrongfully denied the claims of Plaintiff, Rochester Inn, and similarly situated persons, for recovery of damages caused by the COVID-19 pandemic and referenced Orders. See Denial Letter at Exhibit “C

34. Plaintiff, Rochester Inn, and all similarly situated persons, are entitled to a declaration that the policies of insurance issued by Defendant, Nautilus, provide coverage for the losses, damages, and expenses caused by the COVID-19 pandemic and referenced Orders.

35. Plaintiff, Rochester Inn, and all similarly situated persons are entitled to an Order enjoining Defendant, Nautilus, from denying coverage to insureds for business income, extra expense, contamination, civil authority and other coverages for losses, damages, and expenses caused by the COVID-19 pandemic and referenced Orders.

Class Action Allegations

36. Plaintiff, Rochester Inn, brings this action individually and on behalf of a class of similarly situated persons as a class action pursuant to the Pennsylvania Rules of Civil Procedure.

37. Defendant, Nautilus, has wrongfully denied and/or failed to acknowledge the coverage to persons or organizations who have sustained covered losses, damages, and expenses caused by the COVID-19 pandemic and the referenced Orders.

38. Plaintiff, Rochester Inn, seeks to represent a class of Pennsylvania citizens who have sustained covered losses, damages, and expenses caused by the COVID-19 pandemic and the referenced Orders where: (a) Defendant, Nautilus, issued a policy of insurance providing, *inter alia*, business income, extra expense, contamination, civil authority and other applicable coverages to each class member; (b) the putative class member has suffered covered losses, damages, and expenses under those policies by reason of the COVID-19 pandemic and referenced Orders; and (c) Defendant, Nautilus, have disclaimed coverage and/or refused to acknowledge coverage under the policy in question for the loss.

39. Plaintiff, Rochester Inn, reserves the right to amend the definition and/or identify subclasses upon completion of class certification.

40. The putative class is limited to citizens of the Commonwealth of Pennsylvania in numbers sufficient to allow class certification.

41. The members of the class are so numerous that joinder of them is impracticable.

42. Identification of the members of the class can be ascertained in and through discovery of the files and/or computer data base of Defendant, Nautilus.

43. A class action is the only practicable means available for the members of the class to pursue the appropriate remedies and receive the necessary underinsured motorist benefits under the policies of insurance in question.

44. A class action is the only practicable means available to prevent the Defendant, Nautilus, from engaging in the continuous and systematic denial and disclaimer of coverage for losses, damages, and expenses caused by the COVID-19 pandemic and referenced Orders.

45. The questions of law and fact are common to the members of the class which Plaintiff, Rochester Inn, seeks to represent.

46. The questions of law and fact common to the members of the class predominate over questions that may affect only individual members.

47. The common questions of law and fact which control this litigation predominate over any individual issues include, but are not limited to:

- (a) Each member of the class suffered losses, damages, and expenses as a result of the COVID-19 pandemic and referenced Orders;
- (b) Each member of the class is an insured under a policy of insurance issued by Defendant, Nautilus, which provided business income, extra expense, contamination, civil authority and other coverages applicable to the loss;
- (c) Each class member is eligible to recover under the policy issued by Defendant, Nautilus, for the losses, damages, and expenses caused by the COVID-19 pandemic and the referenced Orders;
- (d) Defendant, Nautilus, has denied or refused to acknowledge coverage for the loss;
- (e) The denial or refusal to acknowledge coverage is illegal and a breach of the terms and provisions of the policy at issue; and
- (f) Each member of the class is entitled to a declaration that he or she is entitled to recover under the policy of insurance issued by Defendant, Nautilus, for the losses, damages, and expenses caused by the COVID-19 pandemic and referenced Orders.

48. Plaintiff, Rochester Inn, is a member of the class that it seeks to represent.

49. The claims of Plaintiff, Rochester Inn, are typical of the claims of other members of the class which it purports to represent.

50. Plaintiff, Rochester Inn, is well qualified to act as class representative.

51. Plaintiff, Rochester Inn, will fairly and adequately protect the interests of the members of the class.

52. Plaintiff, Rochester Inn, has no interest that is adverse or antagonistic to the interests of the members of the class.

53. Plaintiff, Rochester Inn, is committed to prosecuting the class action.

54. Plaintiff, Rochester Inn, has retained competent counsel who are experienced in litigation of this nature.

55. A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

56. Joinder of all class matters is impracticable and the likelihood of individual class members prosecuting separate claims is remote due to the fact that the members of the class do not know that they are entitled to as a result of the COVID-19 pandemic and referenced Orders.

57. The expense and burden of individual litigation makes it unlikely that a substantial member of the class members will individually seek redress for the wrongs done to them.

58. It is desirable for all concerned to concentrate the litigation in this particular forum for adjudication.

59. Plaintiff, Rochester Inn, anticipates no difficulty in the management of this action as a class action.

60. The class action brought by Plaintiff, Rochester Inn, is a convenient and proper forum in which to litigate the claim.

61. The prosecution of separate actions by individual class members would create the risk of bearing inconsistent determinations that could confront Defendant, Nautilus, with incompatible standards of conduct and which could prejudice non-parties to any adjudication or substantially impede their ability to protect their own interests because of the overriding common questions of law and fact involved in the matter.

62. Prosecution of these claims as a class action will result in an orderly and expeditious administration of the claims and will foster economies of time, effort and expense.

63. Prosecution of these claims as a class action will contribute to uniformity of decisions concerning the practices of Defendant, Nautilus.

COUNT I
(Declaratory Relief – Individual and Class Claims)

64. Plaintiff, Rochester Inn, hereby incorporates by reference the foregoing Paragraphs 1 through 63 of this Complaint as though same were fully set forth herein.

65. Plaintiff, Rochester Inn, is entitled to coverage under the Nautilus Policy for the losses, damages, and expenses caused by the COVID-19 pandemic and referenced Orders.

66. Each member of the class is entitled to coverage under the applicable policy issued by Defendant, Nautilus.

67. Defendant, Nautilus, has denied and/or refused to acknowledge coverage for the losses, damages, and expenses of Plaintiff, Rochester Inn, caused by the COVID-19 pandemic and the referenced Orders.

68. Defendant, Nautilus, has wrongfully denied and refused to acknowledge coverage to each member of the class for the losses, damages, and expenses caused by the COVID-19 pandemic and referenced Orders.

69. Plaintiff, Rochester Inn, is entitled to recover for losses, damages, and expenses covered by the COVID-19 pandemic and the referenced Orders under the Nautilus Policy.

70. Each member of the class is entitled to recover for losses, damages, and expenses caused by the COVID-19 pandemic and the referenced Orders under the applicable policy.

71. Defendant, Nautilus, has wrongfully refused to provide coverage to Plaintiff, Rochester Inn, under the Nautilus Policy.

72. The denial and refusal to acknowledge coverage to Plaintiff, Rochester Inn, under the Nautilus Policy is a material breach of that policy.

73. The denial and refusal to acknowledge coverage to Plaintiff, Rochester Inn, under the Nautilus Policy is in direct violation of the specific terms and provisions of the Nautilus Policy.

74. The denial and refusal to acknowledge coverage to each member of the class under the applicable policy is a material breach of that policy.

75. Plaintiff, Rochester Inn, is entitled to a declaration that it is entitled to coverage for losses, damages, and expenses caused by the COVID-19 pandemic and the referenced Orders.

76. Each member of the class is entitled to a declaration that he and/or she is entitled to coverage for losses, damages, and expenses caused by the COVID-19 pandemic and the referenced Orders under the pertinent policy of insurance issued by Defendants, Chubb and ACE.

77. The controversy poses an issue for judicial determination under the Declaratory Judgment Act.

78. The controversy involves substantial rights of the parties to the action.

79. The controversy poses an issue for judicial determination which is not within the scope of authority of any arbitrator or arbitration panel pursuant to the policy of insurance in question.

80. A judgment of this court in this action will also be useful for the purpose of clarifying and settling the legal relations at issue between the parties.

81. A judgment of this court will determine, terminate and afford relief from the uncertainty and controversy giving rise to this action.

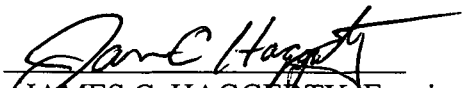
WHEREFORE, Plaintiff, Dumont Brothers, Inc., 505 Rochester, Inc. both d/b/a Rochester Inn & Hardwood Grill, respectfully requests that the Court enter an Order:

- (a) declaring that Plaintiff, Dumont Brothers, Inc., 505 Rochester, Inc. both d/b/a Rochester Inn & Hardwood Grill, is entitled to coverage for losses, damages, and expenses caused by the COVID-19 pandemic and the referenced Orders from Defendant, Nautilus Insurance Company;

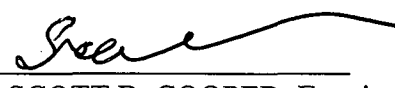
- (b) declaring that each member of the class is entitled to coverage for losses, damages, and expenses caused by the COVID-19 pandemic and the referenced Orders from Defendant, Nautilus Insurance Company; and
- (c) enjoining Defendant, Nautilus Insurance Company, from further denying coverage to Plaintiff, Dumont Brothers, Inc., 505 Rochester, Inc. both d/b/a Rochester Inn & Hardwood Grill., for losses caused by the COVID-19 pandemic and the governmental Orders;
- (d) enjoining Defendant, Nautilus Insurance Company, from denying or refusing to acknowledge coverage for losses caused by the COVID-19 pandemic and the governmental Orders; and
- (e) such other relief as the court deems appropriate.

Respectfully Submitted:


HAGGERTY, GOLDBERG, SCHLEIFER &
KUPERSMITH, P.C.

BY: 
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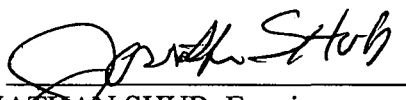
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BY: 
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Attorneys for Plaintiffs

VERIFICATION

I, Todd DuMont, as representative of Dumont Brothers, Inc., 505 Rochester, Inc. D/B/A Rochester Inn & Hardwood Grill, state that the facts set forth in the Complaint are true and correct to the best of my knowledge, information and belief. I understand that the statements are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

DATE: 6-05-2020

BY:


Representing DuMont Brothers, Inc., 505 Rochester, Inc. D/B/A
Rochester Inn & Hardwood Grill

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DIANOIA’S EATERY, LLC, d/b/a)	
DIANOIA’S AND PIZZERIA DAVIDE,)	
)	
Plaintiff,)	
)	
v.)	
)	Civil Action No. 20-706
MOTORISTS MUTUAL INSURANCE)	
COMPANY,)	
)	
Defendant.)	

ORDER OF COURT

AND NOW, this 19th day of May, 2020, upon consideration of the Notice of Removal filed by Defendant Motorists Mutual Insurance Company, (Docket No. 1), and attachments including Plaintiff Dianoia’s Eatery, LLC’s Complaint seeking a declaratory judgment of coverage for business interruption losses sustained due to COVID-19 pandemic shut down orders and an insurance policy between a different insurer (Chubb) and policyholder (Bowser Automotive) than the instant litigants, which were initially filed by Plaintiff in the Court of Common Pleas of Allegheny County, pursuant to which Defendant seeks removal pursuant to 28 U.S.C. §§ 1441(b) and 28 U.S.C. § 1332 based upon alleged diversity jurisdiction,

IT IS HEREBY ORDERED that pursuant to 28 U.S.C. § 1447(c), this matter is REMANDED to the Court of Common Pleas of Allegheny County, forthwith;

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED and serve a certified copy of this Order on the Prothonotary for the Court of Common Pleas of Allegheny County, forthwith.

In so holding, the Court notes that “[f]ederal courts are courts of limited jurisdiction.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377, 114 S.Ct. 1673, 128 L.Ed.2d 391



(1994). “They possess only that power authorized by Constitution or statute, which is not expanded by judicial decree.” *Id.* (internal citations omitted). In every case, the Court has “an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party.” *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514, 126 S.Ct. 1235, 163 L.Ed.2d 1097 (2006). When a party removes a case to federal court, the Court must “evaluate whether that action could have been brought originally in federal court.” *Home Depot U. S. A., Inc. v. Jackson*, 139 S. Ct. 1743, 1748, 204 L. Ed. 2d 34 (2019), *reh'g denied*, No. 17-1471, 2019 WL 3538074 (U.S. Aug. 5, 2019). The Court should remand the case “[i]f at any time before final judgment it appears that the [Court] lacks subject matter jurisdiction.” 28 U.S.C. § 1447(c). Defendant, as the removing party asserting that the Court has jurisdiction over this case, bears the burden of establishing same. *Kokkonen*, 511 U.S. at 377, 114 S.Ct. 1673.

Having considered the matter, the Court finds that the instant removal is deficient under the relevant removal statutes, necessitating a remand of this matter to state court for lack of subject matter jurisdiction and the Court also alternatively declines to exercise subject matter jurisdiction over this case under the Declaratory Judgment Act, (“DJA”), 28 U.S.C. § 2201(a).

Since this case is being removed on the basis of diversity jurisdiction, it is Defendant’s initial burden to demonstrate that the parties are completely diverse and that the amount in controversy is in excess of the jurisdictional threshold of \$75,000. *See* 28 U.S.C. § 1332(a). Here, the Court does not contest that the claim exceeds the jurisdictional amount but as to complete diversity of the parties, since Plaintiff is a limited liability company (“LLC”), the traditional corporate citizenship test articulated by Defendant in the Notice of Removal of the state of incorporation of the business (Pennsylvania) and its principal place of business (Pennsylvania) is not utilized. *See e.g., Zambelli Fireworks Manufacturing Co., Inc. v. Wood*,

592 F.3d 412, 420 (3d Cir. 2010) (limited liability companies are treated like partnerships and other unincorporated associations for diversity purposes); *Johnson v. SmithKline Beecham Corp.*, 724 F.3d 337, 348 (3d Cir. 2013) (the principal place of business of an LLC is irrelevant to determining diversity of citizenship). Rather, to establish that the parties are completely diverse, Defendant must conduct a reasonable investigation to determine the citizenship of the LLC's members and at least aver that none of its members share its own Ohio citizenship. *See Lincoln Ben. Life Co. v. AEI Life, LLC*, 800 F.3d 99, 105-07 (3d Cir. 2015) (a plaintiff must conduct a reasonable inquiry into the facts relating to the citizenship of an opposing unincorporated association and assert, at a minimum, that none of the unincorporated association's members are citizens of the plaintiff's state of citizenship). It is not enough for Defendant to rely upon Plaintiff's allegation that it is a "corporation" in the Complaint because: (1) Plaintiff is identified as an LLC, necessitating further inquiry; (2) Plaintiff attached the wrong insurance policy to the Complaint filed in state court, suggesting the reference to it being a corporation is a mere typographical error; and (3) removal statutes are "strictly construed, requiring remand if any doubt exists over whether remand was proper." *Carlyle Inv. Management LLC v. Moonmouth Co. SA*, 779 F.3d 214, 218 (3d Cir. 2015) (citing *Abels v. State Farm Fire & Cas. Co.*, 770 F.2d 26, 29 (3d Cir. 1985)). Therefore, as this Court has doubts as to whether complete diversity of the parties exists, this matter will be remanded for lack of subject matter jurisdiction.

However, even if this Court had diversity jurisdiction over this case, it would decline to exercise same pursuant to the discretionary authority provided to it under the DJA, which expressly provides that courts "may declare the rights and other legal relations of any interested party seeking such declaration." 28 U.S.C. § 2201(a) (emphasis added). Although this case was "originally brought in state court under Pennsylvania law, the question of whether to exercise

federal jurisdiction to adjudicate the controversy [becomes] a procedural issue under federal law.” *Reifer v. Westport Ins. Corp.*, 751 F.3d 129, 134 n.4 (3d Cir. 2014) (citations omitted). This Court may decline to exercise jurisdiction under the DJA in situations such as this case when there is not a parallel state action after weighing factors set forth by the Third Circuit “bearing on the usefulness of the declaratory judgment remedy.” *Kelly v. Maxum Specialty Ins. Group*, 868 F.3d 274, 282 (3d Cir. 2017). The Court of Appeals has held that the following factors should be considered, to the extent they are relevant:

- 1) the likelihood that a federal court declaration will resolve the uncertainty of obligation which gave rise to the controversy;
- 2) the convenience of the parties;
- 3) the public interest in settlement of the uncertainty of obligation;
- 4) the availability and relative convenience of other remedies;
- 5) a general policy of restraint when the same issues are pending in state court;
- 6) avoidance of duplicative litigation;
- 7) prevention of the use of the declaratory action as a method of procedural fencing or as a means to provide another forum in a race for res judicata; and
- 8) in the insurance context, an inherent conflict of interest between an insurers' duty to defend in a state court and its attempt to characterize that suit in federal court as falling within the scope of a policy exclusion.

Reifer, 751 F.3d at 146. The Court of Appeals continued:

[w]here state law is uncertain or undetermined, the proper relationship between federal and state courts requires district courts to “step back” and be “particularly reluctant” to exercise DJA jurisdiction. [*State Auto Ins. Cos. v. Summy*, 234 F.3d 131, 135-36 (3d Cir. 2000)] (“[T]he state's interest in resolving its own law must not be given short shrift simply because one party or, indeed, both parties, perceive some advantage in the federal forum.”). The

fact that district courts are limited to predicting—rather than establishing—state law requires “serious consideration” and is “especially important in insurance coverage cases.” *Id.* at 135.

Reifer, 751 F.3d at 148. Further, “it is counterproductive for a district court to entertain jurisdiction over a declaratory judgment action that implicates unsettled questions of state law.” *Summy*, 234 F.3d at 135.

This Court has carefully considered each of the factors outlined above and concludes that Plaintiff’s Complaint raises novel insurance coverage issues under Pennsylvania law which are best reserved for the state court to resolve in the first instance. *See e.g., Reifer*, 751 F.3d at 148; *Summy*, 234 F.3d at 135. While legal commentators predict a high volume of these types of insurance coverage cases to be brought by policyholders and insurance companies, there is not yet a body of caselaw developed by Pennsylvania courts on these issues due to the relative recency of the COVID-19 pandemic. In fact, the Supreme Court of Pennsylvania denied a King’s Bench petition last week seeking to consolidate all COVID-19 business interruption litigation before the Supreme Court of Pennsylvania, leaving such cases to be decided by state trial courts. *See Joseph Tambellini, Inc. d/b/a Joseph Tambellini Restaurant v. Erie Ins. Exchange*, No. 52 WM 2020 (Pa. May 14, 2020). Therefore, “serious consideration” must be given to the facts that any declaration issued by this Court as to the parties’ rights under the insurance policy would be merely predicting how Pennsylvania courts would decide these novel issues arising from the COVID-19 pandemic, a matter of great public concern, with little persuasive authority from state courts on these issues. *Reifer*, 751 F.3d at 148. Hence, the first, third, fourth and fifth factors strongly weigh in favor of remanding this matter to state court and clearly outweigh the lone factor in Defendant’s favor, i.e., the second factor related to its preference to litigate in this federal forum.

For all of these reasons, this matter is hereby remanded to the Court of Common Pleas of Allegheny County.

s/Nora Barry Fischer
Nora Barry Fischer
Senior U.S. District Judge

cc/ecf: All counsel of record.

POLICY NUMBER: **NN1000793**Named Insured: 505 Rochester Inc. dba Rochester Inn &
Hardwood Grill; Dumont Brothers, Inc.**SCHEDULE OF FORMS AND ENDORSEMENTS**

IL0017	(11/98)	Common Policy Conditions
E001J	(04/17)	Nautilus Policy Jacket
E915	(07/13)	OFAC Adv Notice to Policyholder
S013	(07/09)	Minimum Earned Premium Endt
S150	(07/09)	CGL Coverage Part Declarations
CG0001	(04/13)	Comml General Liability Cvg Form
CG2107	(05/14)	Excl-Access or Disc of Con/Pers
CG2147	(12/07)	Excl-Employmt-Related Practices
CG2173	(01/15)	Excl of Certified Acts of Terror
CG2196	(03/05)	Silica/Silica-Related Dust Excl
CG2407	(01/96)	Prod/Comp Ops Hazard Redefined
IL0021	(09/08)	Nuclear Energy Liab Excl Endt
L100	(04/11)	Assault or Battery Ltd Liab Cov
L216	(04/16)	Amend of Deftns-Insd Contract
L217	(06/17)	Excl-Punitive Exemplary Dmgs
L223	(06/07)	Exclusion - Total Pollution
L241	(07/09)	Excl-Micro/Bio Organisms/Contam
L343	(12/16)	Excl-Unmanned Airc/Auto/Water
L408	(03/12)	Changes-Civ Union/Domestic Prtnr
L601	(12/09)	Amend of Conditions - Prem Audit
S009	(04/16)	Exclusion-Total Liquor Liability
S222	(07/09)	Excl - Intellectual Prop Rights
S261	(07/09)	Exclusion - Asbestos
F001	(03/12)	Comml Property Coverage Part Dec
CP0010	(10/12)	Building & Personal Prop Cvg Frm
CP0030	(10/12)	Bus Income & Extra Exp Cvg Form
CP0090	(07/88)	Commercial Property Conditions
CP0411	(10/12)	Protective Safeguards
CP1030	(10/12)	Cause of Loss - Special Form
CP1211	(10/00)	Burg-Robbery Protect Safeguards
CP1218	(10/12)	Loss Payable Provisions
IL0935	(07/02)	Excl-Certain Comp-Related Losses
IL0953	(01/15)	Excl of Certified Acts of Terror
E600	(11/15)	Actual Cash Value
F201	(11/05)	Exclusion - Property Pollution
F202	(11/05)	Excl-Micro/Bio Organisms/Contam
F210	(04/16)	Amendment of Coverage - Collapse
F233	(11/14)	Excl Loss - Virus/Bacteria
F400	(05/09)	Equip Breakdown Enhancement Endt
F404	(04/16)	Comml Prop Delx Ext-Special Form
F605	(11/05)	Total Loss Endorsement
E906PA	(01/16)	Service of Suit - Pennsylvania
IL0246	(07/02)	PA Changes - Cancel/Nonrenew
IL0910	(12/03)	Pennsylvania Notice

The forms and endorsements shown on this Schedule constitute the entire policy at the time of issuance.

SCHEDULE OF FORMS AND ENDORSEMENTS (Continued)

ADDITIONAL FORMS APPLICABLE:

The forms and endorsements shown on this Schedule constitute the entire policy at the time of issuance.

IL 00 17 11 98

COMMON POLICY CONDITIONS

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

A. Cancellation

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

B. Changes

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

C. Examination Of Your Books And Records

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

D. Inspections And Surveys

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

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

- c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.

3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

E. Premiums

The first Named Insured shown in the Declarations:

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

F. Transfer Of Your Rights And Duties Under This Policy

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

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

Nautilus Insurance Company[®]

An Arizona Stock Corporation

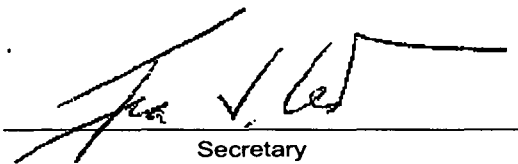
COMMERCIAL LINES POLICY

THIS POLICY IS NOT OBTAINED PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.

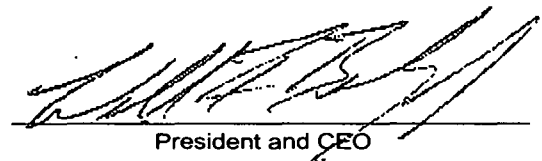
THIS POLICY CONSISTS OF:

- Declarations;
- Common Policy Conditions; and
- One or more Coverage Parts. A Coverage Part consists of:
 - One or more Coverage Forms; and
 - Applicable Forms and Endorsements.

In Witness Whereof, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by our authorized representative.



Secretary



President and CEO

Administrative Office:
7233 East Butherus Drive, Scottsdale, Arizona 85260
(480) 951-0905

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

PLEASE READ THIS NOTICE CAREFULLY.

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

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC.

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of national emergency. OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations and narcotics traffickers as Specially Designated Nationals. This list can be located on the United States Treasury's web site: <http://www.treasury.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments or premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.

POLICY NUMBER: **NN1000793**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MINIMUM EARNED PREMIUM ENDORSEMENT

If this policy is cancelled at your request, there will be a minimum earned premium retained by us of \$ 3,876 or 25 % of the premium for this insurance, whichever is greater.

Non-payment of premium is considered a request by the first Named Insured for cancellation of this policy.

If a policy fee, inspection fee or expense constant is applicable to this policy, they will be fully earned and no refund will be made.

All other terms and conditions of this policy remain unchanged.

COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS

POLICY NUMBER: **NN1000793**

Extension of Declarations is attached.

Effective Date: **02/09/2020 12:01 A.M. Standard Time**

LIMITS OF INSURANCE If box is checked, refer to form **S132** Amendment of Limits of Insurance.

General Aggregate Limit (Other Than Products/Completed Operations)	\$	<u>2,000,000</u>	
Products/Completed Operations Aggregate Limit	\$	<u>2,000,000</u>	
Personal and Advertising Injury Limit	\$	<u>1,000,000</u>	Any One Person Or Organization
Each Occurrence Limit	\$	<u>1,000,000</u>	
Damage To Premises Rented To You Limit	\$	<u>100,000</u>	Any One Premises
Medical Expense Limit	\$	<u>5,000</u>	Any One Person

RETROACTIVE DATE (CG 00 02 ONLY)

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" which occurs before the Retroactive Date, if any, shown here: NONE (Enter Date or "NONE" if no Retroactive Date applies)

BUSINESS DESCRIPTION AND LOCATION OF PREMISES

BUSINESS DESCRIPTION: Bar/Tavern and Restaurant

LOCATION OF ALL PREMISES YOU OWN, RENT, OR OCCUPY:

Location address is same as mailing address.

- 505 Rochester Road
Pittsburgh PA 15237-
-

Additional locations (if any) will be shown on form **S170**, Commercial General Liability Coverage Part Declarations Extension.

LOCATION OF JOB SITE (If Designated Projects are to be Scheduled):

CODE # -	CLASSIFICATION	*	PREMIUM BASIS	RATE		ADVANCE PREMIUM
				Prem/Ops	Prod/Comp Ops	
16915 -	Restaurants - with sale of alcoholic beverages that are 30% or more of but less 75% of the total annual receipts of the restaurants - with dance floor	S	2,200,000	4.076	.390	8,967 858
90605 -	Assault and Battery Sub-Limit Buyback					786
-						
-						

* **PREMIUM BASIS SYMBOLS** **+** = Products/Completed Operations are subject to the General Aggregate Limit
a = Area (per 1,000 sq. ft. of area) **o** = Total Operating Expenditures **s** = Gross Sales (per \$1,000 of Gross Sales)
c = Total Cost (per \$1,000 of Total Cost) (per \$1,000 Total Operating Expenditures) **t** = See Classification
m = Admissions (per 1,000 Admissions) **p** = Payroll (per \$1,000 of Payroll) **u** = Units (per unit)

PREMIUM FOR THIS COVERAGE PART \$ **10,611**

FORMS AND ENDORSEMENTS (other than applicable Forms and Endorsements shown elsewhere in the policy)

Forms and Endorsements applying to this Coverage Part and made part of this policy at time of issue:

Refer to Schedule of Forms and Endorsements

All Other Forms and Endorsements of this Policy Remain Unchanged.

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.
 Includes copyrighted material of Insurance Services Office, Inc. with its permission.

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

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

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

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

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

SECTION I - COVERAGES**COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY****1. Insuring Agreement**

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

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:
- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (2) The "bodily injury" or "property damage" occurs during the policy period; and

- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

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

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

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

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

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

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

f. Pollution

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible; or

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

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

- (a)** Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b)** Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

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

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1)** A watercraft while ashore on premises you own or rent;
- (2)** A watercraft you do not own that is:
 - (a)** Less than 26 feet long; and
 - (b)** Not being used to carry persons or property for a charge;
- (3)** Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4)** Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of:

- (a)** The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
- (b)** The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

h. Mobile Equipment

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

- (1)** The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2)** The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

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

j. Damage To Property

"Property damage" to:

- (1)** Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2)** Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3)** Property loaned to you;

- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

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

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

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

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

k. Damage To Your Product

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

l. Damage To Your Work

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

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

m. Damage To Impaired Property Or Property Not Physically Injured

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

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

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

n. Recall Of Products, Work Or Impaired Property

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

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

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

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

q. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or

- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - Limits Of Insurance.

COVERAGE B - PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

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

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

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

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods - Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14.a., b. and c. of "personal and advertising injury" under the Definitions section.

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

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

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

p. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

COVERAGE C - MEDICAL PAYMENTS

1. Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
- (b) The expenses are incurred and reported to us within one year of the date of the accident; and
- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

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

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

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

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

c. Injury On Normally Occupied Premises

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

d. Workers' Compensation And Similar Laws

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

e. Athletics Activities

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

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

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

- a. All expenses we incur.
- b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b. This insurance applies to such liability assumed by the insured;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
 - d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
 - e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
 - f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2) Provides us with written authorization to:
 - (a) Obtain records and other information related to the "suit"; and
 - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I - Coverage A - Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II - WHO IS AN INSURED

- 1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:
- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
 - (1) "Bodily injury" or "personal and advertising injury":
 - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
 - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services.
 - (2) "Property damage" to property:
 - (a) Owned, occupied or used by;
 - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
 - b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
 - c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
 - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
 - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
- No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III - LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage C;
 - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
 - c. Damages under Coverage B.

3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage A; and
 - b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

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

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

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

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

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and

- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against any insured, you must:
 - (1) Immediately record the specifics of the claim or "suit" and the date received; and
 - (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
 - c. You and any other involved insured must:
 - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
 - d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

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

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

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

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below.

b. Excess Insurance

(1) This insurance is excess over:

(a) Any of the other insurance, whether primary, excess, contingent or on any other basis:

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

(ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;

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

(iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** - Coverage **A** - Bodily Injury And Property Damage Liability.

(b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

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

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

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) The total of all deductible and self-insured amounts under all that other insurance.

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

c. Method Of Sharing

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

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

5. Premium Audit

a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.

c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

a. The statements in the Declarations are accurate and complete;

- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

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

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

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V - DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
 - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
 - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.

5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

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

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

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

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
 - a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
 - d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
 - f. The use of another's advertising idea in your "advertisement"; or
 - g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".
15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

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

- b. Does not include "bodily injury" or "property damage" arising out of:
 - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
 - (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
 - (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

a. Means:

(1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

- (a) You;
- (b) Others trading under your name; or
- (c) A person or organization whose business or assets you have acquired; and

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

b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

(2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

22. "Your work":

a. Means:

(1) Work or operations performed by you or on your behalf; and

(2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and

(2) The providing of or failure to provide warnings or instructions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION - ACCESS OR DISCLOSURE
OF CONFIDENTIAL OR PERSONAL INFORMATION AND
DATA-RELATED LIABILITY - LIMITED BODILY INJURY
EXCEPTION NOT INCLUDED**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Exclusion 2.p. of Section I - Coverage A - Bodily Injury And Property Damage Liability is replaced by the following:

2. Exclusions

This insurance does not apply to:

p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

- (1)** Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2)** The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph **(1)** or **(2)** above.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

B. The following is added to Paragraph 2. Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability:

2. Exclusions

This insurance does not apply to:

Access Or Disclosure Of Confidential Or Personal Information

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYMENT-RELATED PRACTICES EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:

This insurance does not apply to:

"Bodily injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

B. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability:

This insurance does not apply to:

"Personal and advertising injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY

A. The following exclusion is added:

This insurance does not apply to:

TERRORISM

"Any injury or damage" arising, directly or indirectly, out of a "certified act of terrorism".

B. The following definitions are added:

1. For the purposes of this endorsement, "any injury or damage" means any injury or damage covered under any Coverage Part to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "personal and advertising injury", "injury" or "environmental damage" as may be defined in any applicable Coverage Part.

2. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

- a. 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
- b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

- C. The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for injury or damage that is otherwise excluded under this Coverage Part.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SILICA OR SILICA-RELATED DUST EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:**
- 2. Exclusions**
This insurance does not apply to:
Silica Or Silica-Related Dust
- a. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust".
 - b. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
 - c. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.
- B. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability:**
- 2. Exclusions**
This insurance does not apply to:
Silica Or Silica-Related Dust
- a. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
 - b. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.
- C. The following definitions are added to the Definitions Section:**
1. "Silica" means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
 2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

POLICY NUMBER: **NN1000793**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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PRODUCTS/COMPLETED OPERATIONS HAZARD REDEFINED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Description of Premises and Operations:

Bar/Restaurant

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

With respect to "bodily injury" or "property damage" arising out of "your products" manufactured, sold, handled or distributed:

1. On, from or in connection with the use of any premises described in the Schedule, or
2. In connection with the conduct of any operation described in the Schedule, when conducted by you or on your behalf,

Paragraph a. of the definition of "Products-completed operations hazard" in the DEFINITIONS Section is replaced by the following:

"Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" that arises out of "your products" if the "bodily injury" or "property damage" occurs after you have relinquished possession of those products.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NUCLEAR ENERGY LIABILITY EXCLUSION
ENDORSEMENT
(Broad Form)**

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
MEDICAL PROFESSIONAL LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY

1. The insurance does not apply:
 - A. Under any Liability Coverage, to "bodily injury" or "property damage":
 - (1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
 - B. Under any Medical Payments 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 any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:
 - (1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;
 - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or
 - (3) The "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.
2. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "special nuclear material" or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material **(a)** containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and **(b)** resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

- (a)** Any "nuclear reactor";
- (b)** Any equipment or device designed or used for **(1)** separating the isotopes of uranium or plutonium, **(2)** processing or utilizing "spent fuel", or **(3)** handling, processing or packaging "waste";

- (c)** Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

- (d)** Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Property damage" includes all forms of radioactive contamination of property.

POLICY NUMBER: **NN1000793****COMMERCIAL GENERAL LIABILITY**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ASSAULT OR BATTERY LIMITED LIABILITY COVERAGE

This endorsement modifies coverage provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE**LIMITS OF INSURANCE****Assault or Battery Liability Each Event Limit** \$ 300,000**Assault or Battery Liability Aggregate Limit** \$ 300,000**PREMIUM****Assault or Battery Liability Premium** \$ 786

- A. Except as provided by this endorsement, the following is added to 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability, Coverage B - Personal And Advertising Injury Liability, and Coverage C - Medical Payments:**

Regardless of culpability or intent of any person, this insurance does not apply to "bodily injury", "property damage", "personal and advertising injury", or medical payments arising out of any:

1. Actual or alleged assault or battery;
2. Physical altercation; or
3. Any act or omission in connection with the prevention or suppression of such acts, including the alleged failure to provide adequate security.

This exclusion applies regardless of whether such actual or alleged damages are caused by any:

1. Insured;
2. "Employee";
3. Patron; or
4. Any other person; and

whether or not such damages occurred at any premises owned or occupied by any insured.

This exclusion applies to:

1. All causes of action arising out of any assault or battery, or out of a physical altercation including, but not limited to, allegations of negligent hiring, placement, training, or supervision, or to any act, error, or omission relating to such an assault or battery, or physical altercation.
2. Any claims or "suits" brought by any other person, firm or organization asserting rights derived from, contingent upon, or arising out of an assault or battery, or a physical altercation; and specifically excludes from coverage claims or "suits" for:
 - a. Emotional distress for loss of society, services, consortium or income; or
 - b. Reimbursement for expenses including, but not limited to, medical expenses, hospital expenses, or wages, paid or incurred, by such other person, firm or organization; or
3. Any obligation to share damages with or repay someone who must pay damages because of the injury.

We will have no duty to defend or indemnify any insured in any action or proceeding alleging damages arising out of any assault or battery, or physical altercation.

- B. In return for the payment of the premium shown in the Schedule and subject to all the terms of this Coverage Part, we will provide you insurance for Assault or Battery Liability, but only as indicated in this endorsement and subject to the liability limits and provisions as set forth in this endorsement. The Limits of Insurance shown in the Schedule are the only Limits of Insurance available to any insured under this Coverage Part, to which this insurance applies.**

C. The following is added to 1.a. Insuring Agreement of Section I - Coverage A - Bodily Injury And Property Damage Liability:

We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to any person arising out of assault or battery that takes place in the "coverage territory" and occurs during the policy period. We will have the right and duty to defend an insured against any "suit" seeking those damages. However, we will have no duty to defend any insured against any "suit" seeking damages for "bodily injury" or "property damage", to which this insurance does not apply. We may, at our discretion, investigate any "event" and settle any claim or "suit" that may result. But:

1. The amount we will pay for damages is limited as described in H. and I. below; and
2. Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements of any claim or "suit" against any insured.

D. The following exclusions are added to 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:

This insurance does not apply to:

1. Liability of others assumed, by you under any contract or agreement, either oral or in writing, unless specifically endorsed hereon;
2. "Bodily injury" arising out of assault or battery to:
 - a. "Employees", "leased workers", "temporary workers", "volunteer workers", statutory "employees", casual workers, seasonal workers, contractors, subcontractors, or independent contractors of any insured; or
 - b. Any insured's contractors', subcontractors', or independent contractors' "employees", "leased workers", "temporary workers", "volunteer workers", statutory "employees", casual workers, seasonal workers, contractors, subcontractors, or independent contractors

arising out of and in the course of:

- (1) Employment by any insured; or
- (2) Directly or indirectly performing duties related to the conduct of any insured's business; or
- c. The spouse, child, parent, brother or sister of that "employee", "leased worker", "temporary worker", "volunteer worker", statutory "employee", casual worker, seasonal worker, contractor, subcontractor, or independent contractor arising out of D.2.a. or b. above.

This exclusion applies:

- a. Regardless of where the:
 - (1) Services are performed; or
 - (2) "Bodily injury" occurs; and
 - b. Whether any insured may be liable as an employer or in any other capacity; and
 - c. To any obligation to share damages with or repay someone else who must pay damages because of the injury.
3. Any loss or claim either directly or indirectly arising from your activities as an officer or director of any corporation, company or business other than that of the Named Insured.

E. With respect to the insurance provided by this endorsement, exclusion a. Expected or Intended Injury of 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability does not apply to the extension of coverage for assault or battery provided by this endorsement.

F. With respect to the insurance provided by this endorsement, the following replaces 1.g. of Section I - Supplementary Payments - Coverage A And B:

- g. We will pay, in addition to the applicable Limit of Insurance for damages, all interest on that part of any judgment payable by us that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the amount available for the judgment.

G. With respect to the insurance provided by this endorsement, the following is added to Section II - Who Is An Insured:

The following is also an insured:

Your "employees," but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However none of these "employees" is an insured for assault or battery:

1. To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;
2. To the spouse, child, parent, brother or sister of that co-"employee" arising out of **G.1.** above;
3. For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in **G.1.** or **2.** above; or
4. Arising out of his or her providing or failing to provide professional health care services.

H. The following is added to Section III - Limits Of Insurance:

1. Assault or Battery Liability Each Event Limit

Subject to the Assault or Battery Liability Aggregate Limit shown in the Schedule, the Assault or Battery Liability Each Event Limit shown in the Schedule is the most we will pay for the sum of all "bodily injury" or "property damage" because of assault or battery arising out of any one "event".

2. Assault or Battery Liability Aggregate Limit

The Assault or Battery Liability Aggregate Limit shown in the Schedule is the most we will pay for all "bodily injury" or "property damage" because of assault or battery.

I. Paragraphs 2., 3. and 5. of Section III - Limits Of Insurance are amended to read as follows:

2. The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under **Coverage C**;
- b. Damages under **Coverage A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
- c. Damages under **Coverage B**; and
- d. Damages under the Assault or Battery Limited Liability Coverage.

3. The Products-Completed Operations Aggregate Limit is the most we will pay for the sum of:

- a. Damages under **Coverage A**; and
- b. Damages under the Assault or Battery Limited Liability Coverage because of "bodily injury" or "property damage" included in the "products-completed operations hazard".

5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under **Coverage A**; and
- b. Medical expenses under **Coverage C** because of all "bodily injury" and "property damage" arising out of any one "occurrence"; and
- c. Damages because of all "bodily injury" and "property damage" arising out of any one assault or battery "event".

J. The following condition is added to 4. Other Insurance of Section IV - Commercial General Liability Conditions:

If other valid and collectible insurance is available to any insured for a loss we cover under this endorsement, this insurance is excess over any other insurance, whether primary, excess, contingent or on any other basis.

K. The following definition is added to the Definitions section:

"Event" means one or more acts of assault or battery taking place in any one 24 hour period.

All other terms and conditions remain unchanged.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AMENDMENT OF DEFINITIONS - INSURED CONTRACT
(Limited Form)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The definition of "insured contract" in the **Definitions** section is **replaced** by the following:

"Insured contract" means any written:

- a. Contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for "property damage" to premises while rented or loaned to you, or temporarily occupied by you with permission of the owner, is not an "insured contract";
- b. Sidetrack agreement;
- c. Easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. Obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. Elevator maintenance agreement; or
- f. Part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or those acting on your behalf. However, such part of a contract or agreement shall only be considered an "insured contract" to the extent your assumption of the tort liability is permitted by law. 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:

- a. That indemnifies any person or organization for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- b. That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (1) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs, drawings, or specifications; or
 - (2) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- c. Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **b.(1)** or **b.(2)** above and supervisory, inspection, architectural or engineering activities; or
- d. That indemnifies any person or organization for "bodily injury" or "property damage" arising from the ownership, maintenance, or use of any aircraft.

All other terms and conditions remain unchanged.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - PUNITIVE OR EXEMPLARY DAMAGES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following exclusion is **added to 2. Exclusions of Section I:**

This insurance does not apply to punitive or exemplary damages, including but not limited to those damages that may be imposed to punish a wrongdoer or to deter others from engaging in a similar behavior.

All other terms and conditions of this policy remain unchanged.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - TOTAL POLLUTION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Exclusion f. Pollution of 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability is replaced by the following:

This insurance does not apply to:

f. Pollution

(1) "Bodily injury" or "property damage" which would not have occurred in whole or in part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

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

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

(b) Claim or "suit" by or on behalf of any authority, governmental or otherwise, 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"; or

(c) Requirements by Environmental Protection Agency (EPA) 40 CFR Parts 280 and 281 for underground storage tanks, Comprehensive Environmental Response Compensation and Liability Act (CERCLA) or any similar State or Federal environmental act(s).

B. The definition of "Pollutants" in the Definitions section is replaced by the following:

"Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned or reclaimed.

All other terms and conditions of this policy remain unchanged.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION - MICROORGANISMS, BIOLOGICAL ORGANISMS,
BIOAEROSOLS OR ORGANIC CONTAMINANTS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusions are **added to 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability, Coverage B - Personal And Advertising Injury Liability and Coverage C - Medical Payments:**

This insurance does not apply to:

1. "Bodily injury", "property damage", "personal and advertising injury", or medical payments arising out of, related to, caused by or in any way connected with the exposure to, presence of, formation of, existence of or actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of any microorganisms, biological organisms, bioaerosols or organic contaminants including, but not limited to, mold, mildew, fungus, spores, yeast or other toxins, mycotoxins, allergens, infectious agents, wet or dry rot or rust, or any materials containing them at any time, regardless of the cause of growth, proliferation or secretion.
2. Any loss, cost or expense arising out of any:
 - a. Request, demand, order, or requirement by or on behalf of any authority, governmental or otherwise, that any insured or others abate, test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, remediate or dispose of, or in any way respond to, or assess the effects of microorganisms, biological organisms, bioaerosols or organic contaminants including, but not limited to, mold, mildew, fungus, spores, yeast, or other toxins, mycotoxins, allergens, infectious agents, wet or dry rot or rust, or any materials containing them at any time, regardless of the cause of growth, proliferation or secretion; or
 - b. Claim or "suit" by or on behalf of any authority, governmental or otherwise, for damages because of abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of microorganisms, biological organisms, bioaerosols or organic contaminants including, but not limited to, mold, mildew, fungus, spores, yeast, or other toxins, mycotoxins, allergens, infectious agents, wet or dry rot or rust, or any materials containing them at any time, regardless of the cause of growth, proliferation or secretion.

We shall have no duty to investigate, defend, or indemnify any insured in any action or proceeding alleging damages arising out of direct or indirect contact with, any exposure to, or the ingestion, inhalation or absorption of any microorganisms, biological organisms, bioaerosols, or organic contaminants including, but not limited to, mold, mildew, fungus, spores, yeast or other toxins, mycotoxins, allergens, infectious agents, wet or dry rot or rust, or any materials containing them at any time, regardless of the cause of growth, proliferation or secretion.

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

All other terms and conditions of this policy remain unchanged.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - UNMANNED AIRCRAFT, OTHER THAN UNMANNED AIRCRAFT, AUTO OR WATERCRAFT (Limited)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Exclusion g. Aircraft, Auto Or Watercraft under Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability is replaced by the following:

2. Exclusions

This insurance does not apply to:

g. Aircraft, Auto Or Watercraft

(1) Unmanned Aircraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This Paragraph **g.(1)** applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

(2) Aircraft (Other Than Unmanned Aircraft), Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft:

(a) Owned or operated by or rented or loaned to any insured; or

(b) Owned or operated by or rented or loaned to any person employed, contracted or sub-contracted by you, or by others on your behalf, for the purpose of providing transportation, delivery, or any other service related to, or in the furtherance of, your operations.

Use includes operation and "loading or unloading".

This Paragraph **g.(2)** applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft that is:

(a) Owned or operated by or rented or loaned to any insured; or

(b) Owned or operated by or rented or loaned to any person employed, contracted or sub-contracted by you, or by others on your behalf, for the purpose of providing transportation, delivery, or any other service related to, or in the furtherance of, your operations.

This Paragraph **g.(2)** does not apply to:

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

(b) "Bodily injury" or "property damage" arising out of:

- (i) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
- (ii) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment" as follows:
 - (aa) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - (bb) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

B. The following exclusion is added to Paragraph 2. Exclusions of Coverage B - Personal And Advertising Injury Liability:

2. Exclusions

This insurance does not apply to:

Unmanned Aircraft

"Personal and advertising injury" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

This exclusion does not apply to:

- a. The use of another's advertising idea in your "advertisement"; or
- b. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

C. The following definition is added to the Definitions section:

"Unmanned aircraft" means an aircraft that is not:

- 1. Designed;
- 2. Manufactured; or
- 3. Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

All other terms and conditions remain unchanged.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CHANGES - CIVIL UNION OR DOMESTIC PARTNERSHIP

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

All references to spouse shall include an individual who is a party to a civil union or is in a domestic partnership recognized under state law, where applicable.

All other terms and conditions remain unchanged.

POLICY NUMBER: **NN1000793****COMMERCIAL GENERAL LIABILITY**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CONDITIONS - PREMIUM AUDIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
 LIQUOR LIABILITY COVERAGE PART
 OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
 PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
 PROFESSIONAL LIABILITY COVERAGE PART

A. The Premium Audit Condition under **Section IV - Conditions** is replaced by the following:**Premium Audit**

1. We will compute all premiums for this Coverage Part in accordance with our rules and rates. Premium shown in this Coverage Part as advance premium is a minimum and deposit premium.

The rates for each classification shown in the Declarations are multiplied by the estimated premium bases of that classification for the term to determine the advance premium.

We may conduct an audit of your books to determine the actual premium bases developed during the policy period. To calculate the actual premium developed during the policy period we will use one, or a combination, of the following premium bases: payroll, admissions, gross sales, total cost, area, each exposure unit, units or total operating expenditures.

2. If we determine, whether by audit of your books and records or otherwise, that you are conducting operations not scheduled on this policy, we may add the appropriate classifications and compute the rates and premiums in accordance with our rules and rates in effect on the inception date of this policy, unless coverage has been restricted to "designated operations".

3. Premium Bases.

The premium bases are defined in accordance with our rules and the following additional definitions:

- a. Payroll** (premium basis symbol **p**): Remuneration paid to "employees", "casual laborers", "temporary workers", day laborers, statutory workers, seasonal workers or "leased workers", including but not limited to:

(1) Money or substitutes for money; commissions; bonuses; overtime; payments to statutory insurance or pension plans; profit sharing or incentive plans; pay for holidays, vacation or sickness; and fees paid to employment agencies for temporary personnel provided to you.

(2) If your operations consist of a number of separate operations classified individually in the Declarations, the payroll will be allocated to each classification where you have maintained records for each separate operation. Any such operation for which separate records are **not** maintained by you will be assigned to the highest rated classification.

(3) For premium computation purposes, the payroll of executive officers, individual insureds and co-partners is subject to a minimum annual payroll per person of:

\$

(If no entry is made, the minimum payroll as established by our rating rules will apply.)

The rates apply per \$1,000 of Payroll.

- b. Admissions** (premium basis symbol **m**): The total number of persons, other than your "employees", admitted to the insured event or to events conducted on the premises whether on paid admissions, tickets, complimentary tickets or passes.

The rates apply per 1,000 Admissions.

- c. Gross Sales** (premium basis symbol **s**): The gross amount charged by you, your concessionaires or by others trading under your name for:
- (1) All goods or products, sold or distributed;
 - (2) Operations performed during the policy period; and
 - (3) Rentals; or
 - (4) Dues or fees.
- The rates apply per \$1,000 of Gross Sales.
- d. "Total Cost"** (premium basis symbol **c**) means the total cost of all work let or sublet in connection with each specific project including:
- (1) The cost of all labor, materials and equipment furnished, used or delivered for use in the execution of the work including the cost of finished equipment installed whether or not furnished by the contractor, or subcontractor, or by you; and
 - (2) All fees, bonuses or commissions made, paid or due.
- The rates apply per \$1,000 of Total Cost.
- e. Area** (premium basis symbol **a**): The total number of square feet of floor space at the insured premises. The rates apply per 1,000 square feet of Area.
- f. Each** (premium basis symbol **t**): This basis of premium involves units of exposure, and the quantity comprising each unit of exposure is indicated in the Declarations, such as "per person". The rates apply per each unit of exposure.
- g. Units** (premium basis symbol **u**): A single room or group of rooms intended for occupancy as separate living quarters by a family, by a group of unrelated persons living together, or by a person living alone. The rates apply per Unit.
- h. Total Operating Expenditures** (premium basis symbol **o**): Total expenditures (including grants, entitlements and shared revenue) without regard to source of revenue during the policy period including accounts payable. The rates apply per \$1,000 of Total Operating Expenditures.
4. The first Named Insured must keep records of the information we need for premium computation and send us copies at such times as we may request. Failure to supply such records upon request will be deemed a breach of condition and subject this policy, and may subject any in force policy of yours, to cancellation for breach of conditions.
5. We reserve the right to 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.
6. Premium shown in this Coverage Part as advance premium is a minimum and deposit premium. Advance premium includes any payments identified as premium paid prior to policy expiration. At the close of each audit period, we will compute the earned premium for that period. Audit premium is due and payable upon notice to the first Named Insured. Failure to pay the audit premium due will be deemed a breach of contract and subject this policy, and may subject any in force policy of yours, to cancellation for non-payment of premium.
- a. If the actual earned premium generated as a result of an audit for the policy period is less than the advance premium, such advance premium is the minimum premium for the policy period indicated and is not subject to adjustment.
 - b. If the actual earned premium generated as a result of an audit for the policy period is greater than the advance premium, then a final premium adjustment endorsement will be issued. The additional premium amount shown on the final premium adjustment endorsement is due and payable to us upon notice to the first Named Insured.
7. **Estimated Annual Audit Procedure:**
- If, after three documented attempts, we are unable to examine your books and records to obtain the information necessary to complete the audit, we may implement our estimated audit procedure as outlined below:
- a. An Estimated Audit Endorsement will be issued reflecting a fifty percent (50%) increase in your reported premium basis. This increase is an estimate based on information we have on file, or your business operations.

- b. The Estimated Audit Endorsement will include a copy of the Unproductive Audit Report that outlines the documented attempts made to collect the required information.
- c. If you agree with the Estimated Audit Endorsement, you must remit payment for the full amount of the estimated audit; or
- d. If you dispute the Estimated Audit Endorsement, you must provide the requested audit information so we can calculate the proper earned premium developed for the policy period.

8. Cancellation Audit Procedure.

- a. If the policy is canceled prior to the expiration date the first Named Insured retains the unearned premium; we will retain the earned premium developed by:
 - (1) Multiplying the advance premium by the applicable pro-rata factor, short-rate factor, or minimum earned premium percentage; or
 - (2) An audit of your books and records for the period the policy was in force, whichever is greater.
- b. If the actual earned premium generated as a result of an audit is greater than the advance premium paid at issuance, then a final premium adjustment endorsement will be issued. The additional premium amount shown on the final premium adjustment endorsement is due and payable to us upon notice to the first Named Insured.

B. The following definitions are added to the Definitions section:

- 1. "Casual laborers" are persons who provide services that are performed in the course of the employing unit's trade or business regardless of the amount of remuneration received or the length of time the services are provided.
- 2. "Designated operations" means only those operations performed by any insured that are described on the Common Policy Declarations, the General Liability Coverage Part Declarations, or the endorsements or supplements of this insurance.

All other terms and conditions of this policy remain unchanged.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - TOTAL LIQUOR LIABILITY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Exclusion **c. Liquor Liability** under Paragraph 2., Exclusions of Section I - Coverage A. - Bodily Injury and Property Damage Liability is replaced by the following:

This insurance does not apply to:

c. Liquor Liability

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

- (1)** Causing or contributing to the intoxication of any person, including causing or contributing to the intoxication of any person because alcoholic beverages were permitted to be brought on your premises, for consumption on your premises;
- (2)** The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3)** Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured or his indemnitee allege negligence or other wrongdoing in:

- (a)** The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b)** Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph **(1)**, **(2)** or **(3)** above.

All other terms and conditions remain unchanged.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - INTELLECTUAL PROPERTY RIGHTS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:

This insurance does not apply to "bodily injury" or "property damage" arising out of the infringement, use, or violation of another's "intellectual property rights".

B. Exclusion i. in 2. Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability is replaced by the following:

This insurance does not apply to:

i. Infringement Of Intellectual Property Rights

"Personal and advertising injury" arising out of the infringement, use, or violation of "intellectual property rights", including the infringement, use, or violation of another's "intellectual property rights" in your "advertisement".

C. The following definition is added to the Definitions section:

"Intellectual property rights" means exclusive rights pertaining to the creations of the mind, both artistic and commercial, that have potential commercial value and may have a right to protection. "Intellectual property rights" include, but are not limited to, copyrights, domain names, industrial design rights, patents, trademarks, trade dress, trade names, or trade secrets.

All other terms and conditions of this policy remain unchanged.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - ASBESTOS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following is added to Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability, Coverage B - Personal And Advertising Injury Liability and Coverage C - Medical Payments:

This insurance does not apply to:

1. "Bodily injury", "property damage", "personal and advertising injury", medical payments or "reduction in value" related to the actual, alleged, or threatened presence of, or exposure to "asbestos" in any form, or to harmful substances emanating from "asbestos". This includes ingestion, inhalation, absorption, contact with, existence or presence of, or exposure to "asbestos". Such injury from or exposure to "asbestos" also includes, but is not limited to:
 - a. The existence, installation, storage, handling or transportation of "asbestos";
 - b. The removal, abatement or containment of "asbestos" from any structures, materials, goods, products, or manufacturing process;
 - c. The disposal of "asbestos";
 - d. Any structures, manufacturing processes, or products containing "asbestos";
 - e. Any obligation to share damages with or repay someone else who must pay damages because of such injury or damage; or
 - f. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with the above.
2. Any loss, cost or expense, including, but not limited to payment for investigation or defense, fines, penalties and other costs or expenses, arising out of any:
 - a. Claim, "suit", demand, judgment, obligation, order, request, settlement, or requirement by or on behalf of any authority, governmental or otherwise, that any insured or any other person or entity test for, monitor, clean up, remove, contain, mitigate, treat, neutralize, remediate, or dispose of, or in any way respond to, or assess the actual or alleged effects of "asbestos"; or
 - b. Claim, "suit", demand, judgment, obligation, request, or settlement due to any actual, alleged, or threatened injury or damage from "asbestos" or testing for, monitoring, cleaning up, removing, containing, mitigating, treating, neutralizing, remediating, or disposing of, or in any way responding to or assessing the actual or alleged effects of, "asbestos" by any insured or by any other person or entity; or
 - c. Claim, "suit", demand, judgment, obligation, or request to investigate which would not have occurred, in whole or in part, but for the actual or alleged presence of or exposure to "asbestos".

This exclusion applies regardless of who manufactured, produced, installed, used, owned, sold, distributed, handled, stored or controlled the "asbestos".

B. The following definitions are added to the Definitions section:

1. "Asbestos" means any type or form of asbestos, asbestos fibers, asbestos products, or asbestos materials, including any products, goods, or materials containing asbestos or asbestos fibers, products or materials and any gases, vapors, scents or by-products produced or released by asbestos.
2. "Reduction in value" means any claim, demand or "suit" that alleges diminution, impairment or devaluation of tangible property.

All other terms and conditions of this policy remain unchanged.

COMMERCIAL PROPERTY COVERAGE PART DECLARATIONSPOLICY NUMBER: **NN1000793** Supplemental Declarations is attached (Applies only if box is checked) Effective Date: 02/09/2020 12:01 A.M. Standard Time

PREM NO.		BLDG NO.		LOCATION ADDRESS	CLASS CODE	CONST	PROT CLASS	YEAR BUILT	NO. OF STORIES
1	1	1	1	505 Rochester Road Pittsburgh PA 15237- BLDG DESC/OCCUPANCY:Bar/Tavern and Restaurant	0532	FRAME	05	1982	2
				BLDG DESC/OCCUPANCY:	-				
				BLDG DESC/OCCUPANCY:	-				

PREM NO.	BLDG NO.	COVERAGE	LIMIT OF INSURANCE	COVERED CAUSES OF LOSS	* COINS %	RATES	PREMIUM
1	1	Building	750,000	Special-Incl Theft	80%	.3270 \$	2,453
1	1	Business Pers Prop	200,000	Special-Incl Theft	80%	.4000	800
1	1	Bus Inc wo/Rent w/EE	300,000	Special-Incl Theft	100%	.4340	1,302
1	1	Equipment Breakdown					137
1	1	Comm'l Prop Ext Endt					200

* IF EXTRA EXPENSE COVERAGE, LIMITS ON LOSS PAYMENT

DEDUCTIBLE \$ 1,000 Exceptions: \$

OPTIONAL COVERAGES (APPLICABLE ONLY WHEN ENTRIES ARE MADE IN THE SCHEDULE BELOW)

PREM NO.	BLDG NO.	EXPIRATION DATE	AGREED VALUE		REPLACEMENT COST (APPLIES ONLY IF "X" IS SHOWN BELOW)		
			COVERAGE	AMOUNT	BUILDING	PERSONAL PROPERTY	INCLUDING "STOCK"
1	1				X	X	

PREM NO.	BLDG NO.	INFLATION GUARD PERCENTAGE		** MONTHLY LIMIT OF INDEMNITY (Fraction)	** MAXIMUM PERIOD OF INDEMNITY ***	** EXTENDED PERIOD OF INDEMNITY (Days)
		BUILDING	PERSONAL PROPERTY			

** APPLIES TO BUSINESS INCOME ONLY
*** APPLIES ONLY IF "X" IS SHOWN BELOW

MORTGAGE HOLDER(S)

PREM NO.	BLDG NO.	MORTGAGE HOLDER NAME AND MAILING ADDRESS
		LOAN NUMBER: -
		LOAN NUMBER: -
		LOAN NUMBER: -

PREMIUM FOR THIS COVERAGE PART \$ 4,892

FORMS AND ENDORSEMENTS (other than applicable Forms and Endorsements shown elsewhere in the policy)

Forms and Endorsements applying to this Coverage Part and made part of this policy at time of issue:
APPLICABLE TO ALL COVERAGES: **Refer to Schedule of Forms and Endorsements**

APPLICABLE TO SPECIFIC PREMISES/COVERAGES:
PREM NO. BLDG NO. COVERAGES FORM NUMBERS

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

**BUILDING AND PERSONAL PROPERTY
COVERAGE FORM**

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

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

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

A. Coverage

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

1. Covered Property

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

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

- (1) Completed additions;
- (2) Fixtures, including outdoor fixtures;
- (3) Permanently installed:
 - (a) Machinery; and
 - (b) Equipment;
- (4) Personal property owned by you that is used to maintain or service the building or structure or its premises, including:
 - (a) Fire-extinguishing equipment;
 - (b) Outdoor furniture;
 - (c) Floor coverings; and
 - (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;
- (5) If not covered by other insurance:
 - (a) Additions under construction, alterations and repairs to the building or structure;
 - (b) Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the building or structure.

b. Your Business Personal Property

consists of the following property located in or on the building or structure described in the Declarations or in the open (or in a vehicle) within 100 feet of the building or structure or within 100 feet of the premises described in the Declarations, whichever distance is greater:

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

c. Personal Property Of Others that is:

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

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

2. Property Not Covered

Covered Property does not include:

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

- n. Electronic data, except as provided under the Additional Coverage, Electronic Data. Electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data. This paragraph, n., does not apply to your "stock" of prepackaged software, or to electronic data which is integrated in and operates or controls the building's elevator, lighting, heating, ventilation, air conditioning or security system;
- o. The cost to replace or restore the information on valuable papers and records, including those which exist as electronic data. Valuable papers and records include but are not limited to proprietary information, books of account, deeds, manuscripts, abstracts, drawings and card index systems. Refer to the Coverage Extension for Valuable Papers And Records (Other Than Electronic Data) for limited coverage for valuable papers and records other than those which exist as electronic data;
- p. Vehicles or self-propelled machines (including aircraft or watercraft) that:
 - (1) Are licensed for use on public roads; or
 - (2) Are operated principally away from the described premises.

This paragraph does not apply to:

- (a) Vehicles or self-propelled machines or autos you manufacture, process or warehouse;

- (b) Vehicles or self-propelled machines, other than autos, you hold for sale;
 - (c) Rowboats or canoes out of water at the described premises; or
 - (d) Trailers, but only to the extent provided for in the Coverage Extension for Non-owned Detached Trailers; or
- q. The following property while outside of buildings:
- (1) Grain, hay, straw or other crops;
 - (2) Fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, trees, shrubs or plants (other than trees, shrubs or plants which are "stock" or are part of a vegetated roof), all except as provided in the Coverage Extensions.
- 3. Covered Causes Of Loss**
- See applicable Causes Of Loss form as shown in the Declarations.
- 4. Additional Coverages**
- a. Debris Removal**
- (1) Subject to Paragraphs (2), (3) and (4), we will pay your expense to remove debris of Covered Property and other debris that is on the described premises, when such debris is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
 - (2) Debris Removal does not apply to costs to:
 - (a) Remove debris of property of yours that is not insured under this policy, or property in your possession that is not Covered Property;
 - (b) Remove debris of property owned by or leased to the landlord of the building where your described premises are located, unless you have a contractual responsibility to insure such property and it is insured under this policy;
 - (c) Remove any property that is Property Not Covered, including property addressed under the Outdoor Property Coverage Extension;
 - (d) Remove property of others of a type that would not be Covered Property under this Coverage Form;
 - (e) Remove deposits of mud or earth from the grounds of the described premises;
 - (f) Extract "pollutants" from land or water; or
 - (g) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in Paragraph (4), the following provisions apply:
- (a) The most we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.
 - (b) Subject to (a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage. However, if no Covered Property has sustained direct physical loss or damage, the most we will pay for removal of debris of other property (if such removal is covered under this Additional Coverage) is \$5,000 at each location.
- (4) We will pay up to an additional \$25,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:
- (a) The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.
 - (b) The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

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

(5) Examples

The following examples assume that there is no Coinsurance penalty.

Example 1

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

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

Example 2

Limit of Insurance:	\$ 90,000
Amount of Deductible:	\$ 500
Amount of Loss:	\$ 80,000
Amount of Loss Payable:	\$ 79,500
	(\$80,000 - \$500)
Debris Removal Expense:	\$ 40,000
Debris Removal Expense Payable	
Basic Amount:	\$ 10,500
Additional Amount:	\$ 25,000

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

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

b. Preservation Of Property

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

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

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$1,000 for service at each premises described in the Declarations, unless a higher limit is shown in the Declarations. Such limit is the most we will pay regardless of the number of responding fire departments or fire units, and regardless of the number or type of services performed.

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

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

No Deductible applies to this Additional Coverage.

d. Pollutant Clean-up And Removal

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

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

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

e. Increased Cost Of Construction

- (1) This Additional Coverage applies only to buildings to which the Replacement Cost Optional Coverage applies.
- (2) In the event of damage by a Covered Cause of Loss to a building that is Covered Property, we will pay the increased costs incurred to comply with the minimum standards of an ordinance or law in the course of repair, rebuilding or replacement of damaged parts of that property, subject to the limitations stated in e.(3) through e.(9) of this Additional Coverage.
- (3) The ordinance or law referred to in e.(2) of this Additional Coverage is an ordinance or law that regulates the construction or repair of buildings or establishes zoning or land use requirements at the described premises and is in force at the time of loss.
- (4) Under this Additional Coverage, we will not pay any costs due to an ordinance or law that:
 - (a) You were required to comply with before the loss, even when the building was undamaged; and
 - (b) You failed to comply with.

(5) Under this Additional Coverage, we will not pay for:

- (a) The enforcement of or compliance with any ordinance or law which requires demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungus", wet or dry rot or bacteria; or
- (b) Any costs associated with the enforcement of or compliance with an ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungus", wet or dry rot or bacteria.

(6) The most we will pay under this Additional Coverage, for each described building insured under this Coverage Form, is \$10,000 or 5% of the Limit of Insurance applicable to that building, whichever is less. If a damaged building is covered under a blanket Limit of Insurance which applies to more than one building or item of property, then the most we will pay under this Additional Coverage, for that damaged building, is the lesser of \$10,000 or 5% times the value of the damaged building as of the time of loss times the applicable Coinsurance percentage.

The amount payable under this Additional Coverage is additional insurance.

(7) With respect to this Additional Coverage:

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

(4) The most we will pay under this Additional Coverage, Electronic Data, is \$2,500 (unless a higher limit is shown in the Declarations) for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved. If loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in but not after that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

5. Coverage Extensions

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

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

a. Newly Acquired Or Constructed Property

(1) Buildings

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

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

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

(2) Your Business Personal Property

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

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

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

(b) This Extension does not apply to:

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

(3) Period Of Coverage

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

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

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

b. Personal Effects And Property Of Others

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

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

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

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

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

d. Property Off-premises

- (1) You may extend the insurance provided by this Coverage Form to apply to your Covered Property while it is away from the described premises, if it is:
 - (a) Temporarily at a location you do not own, lease or operate;
 - (b) In storage at a location you lease, provided the lease was executed after the beginning of the current policy term; or
 - (c) At any fair, trade show or exhibition.
- (2) This Extension does not apply to property:
 - (a) In or on a vehicle; or
 - (b) In the care, custody or control of your salespersons, unless the property is in such care, custody or control at a fair, trade show or exhibition.
- (3) The most we will pay for loss or damage under this Extension is \$10,000.

e. Outdoor Property

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

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

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

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

f. Non-owned Detached Trailers

- (1) You may extend the insurance that applies to Your Business Personal Property to apply to loss or damage to trailers that you do not own, provided that:
 - (a) The trailer is used in your business;
 - (b) The trailer is in your care, custody or control at the premises described in the Declarations; and
 - (c) You have a contractual responsibility to pay for loss or damage to the trailer.
- (2) We will not pay for any loss or damage that occurs:
 - (a) While the trailer is attached to any motor vehicle or motorized conveyance, whether or not the motor vehicle or motorized conveyance is in motion;
 - (b) During hitching or unhitching operations, or when a trailer becomes accidentally unhitched from a motor vehicle or motorized conveyance.
- (3) The most we will pay for loss or damage under this Extension is \$5,000, unless a higher limit is shown in the Declarations.
- (4) This insurance is excess over the amount due (whether you can collect on it or not) from any other insurance covering such property.

g. Business Personal Property Temporarily In Portable Storage Units

- (1) You may extend the insurance that applies to Your Business Personal Property to apply to such property while temporarily stored in a portable storage unit (including a detached trailer) located within 100 feet of the building or structure described in the Declarations or within 100 feet of the premises described in the Declarations, whichever distance is greater.

- (2) If the applicable Covered Causes of Loss form or endorsement contains a limitation or exclusion concerning loss or damage from sand, dust, sleet, snow, ice or rain to property in a structure, such limitation or exclusion also applies to property in a portable storage unit.
- (3) Coverage under this Extension:
 - (a) Will end 90 days after the business personal property has been placed in the storage unit;
 - (b) Does not apply if the storage unit itself has been in use at the described premises for more than 90 consecutive days, even if the business personal property has been stored there for 90 or fewer days as of the time of loss or damage.
- (4) Under this Extension, the most we will pay for the total of all loss or damage to business personal property is \$10,000 (unless a higher limit is indicated in the Declarations for such Extension) regardless of the number of storage units. Such limit is part of, not in addition to, the applicable Limit of Insurance on Your Business Personal Property. Therefore, payment under this Extension will not increase the applicable Limit of Insurance on Your Business Personal Property.
- (5) This Extension does not apply to loss or damage otherwise covered under this Coverage Form or any endorsement to this Coverage Form or policy, and does not apply to loss or damage to the storage unit itself.

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

B. Exclusions And Limitations

See applicable Causes Of Loss form as shown in the Declarations.

C. Limits Of Insurance

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

The most we will pay for loss or damage to outdoor signs, whether or not the sign is attached to a building, is \$2,500 per sign in any one occurrence.

The amounts of insurance stated in the following Additional Coverages apply in accordance with the terms of such coverages and are separate from the Limit(s) Of Insurance shown in the Declarations for any other coverage:

1. Fire Department Service Charge;
2. Pollutant Clean-up And Removal;
3. Increased Cost Of Construction; and
4. Electronic Data.

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

D. Deductible

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

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

Example 1

(This example assumes there is no Coinsurance penalty.)

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

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

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

\$ 60,100
- 250
<hr style="width: 50px; margin-left: 0;"/>

\$ 59,850 Loss Payable - Building 1

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

Total amount of loss payable:

$\$59,850 + \$80,000 = \$139,850$

Example 2

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

The Deductible and Limits of Insurance are the same as those in Example 1.

Loss to Building 1:	\$ 70,000
(Exceeds Limit of Insurance plus Deductible)	
Loss to Building 2:	\$ 90,000
(Exceeds Limit of Insurance plus Deductible)	
Loss Payable - Building 1:	\$ 60,000
(Limit of Insurance)	
Loss Payable - Building 2:	\$ 80,000
(Limit of Insurance)	
Total amount of loss payable:	\$ 140,000

E. Loss Conditions

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

1. Abandonment

There can be no abandonment of any property to us.

2. Appraisal

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

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

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

3. Duties In The Event Of Loss Or Damage

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

(1) Notify the police if a law may have been broken.

- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
 - (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
 - (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
 - (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
 - (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.
Also, permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
 - (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
 - (8) Cooperate with us in the investigation or settlement of the claim.
- b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

4. Loss Payment

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

We will determine the value of lost or damaged property, or the cost of its repair or replacement, in accordance with the applicable terms of the Valuation Condition in this Coverage Form or any applicable provision which amends or supersedes the Valuation Condition.
- b. The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of or compliance with any ordinance or law regulating the construction, use or repair of any property.
- c. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- d. We will not pay you more than your financial interest in the Covered Property.
- e. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, if you have complied with all of the terms of this Coverage Part, and:
 - (1) We have reached agreement with you on the amount of loss; or
 - (2) An appraisal award has been made.

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

5. Recovered Property

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

6. Vacancy

a. Description Of Terms

(1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in **(1)(a)** and **(1)(b)** below:

(a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.

(b) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless at least 31% of its total square footage is:

(i) Rented to a lessee or sublessee and used by the lessee or sublessee to conduct its customary operations; and/or

(ii) Used by the building owner to conduct customary operations.

(2) Buildings under construction or renovation are not considered vacant.

b. Vacancy Provisions

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

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

(a) Vandalism;

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

(c) Building glass breakage;

(d) Water damage;

(e) Theft; or

(f) Attempted theft.

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

7. Valuation

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

a. At actual cash value as of the time of loss or damage, except as provided in **b.**, **c.**, **d.** and **e.** below.

b. If the Limit of Insurance for Building satisfies the Additional Condition, Coinsurance, and the cost to repair or replace the damaged building property is \$2,500 or less, we will pay the cost of building repairs or replacement.

The cost of building repairs or replacement does not include the increased cost attributable to enforcement of or compliance with any ordinance or law regulating the construction, use or repair of any property.

However, the following property will be valued at the actual cash value, even when attached to the building:

- (1) Awnings or floor coverings;
 - (2) Appliances for refrigerating, ventilating, cooking, dishwashing or laundering; or
 - (3) Outdoor equipment or furniture.
- c. "Stock" you have sold but not delivered at the selling price less discounts and expenses you otherwise would have had.
 - d. Glass at the cost of replacement with safety-glazing material if required by law.
 - e. Tenants' Improvements and Betterments at:
 - (1) Actual cash value of the lost or damaged property if you make repairs promptly.
 - (2) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
 - (a) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
 - (b) Divide the amount determined in (a) above by the number of days from the installation of improvements to the expiration of the lease.
 If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.
 - (3) Nothing if others pay for repairs or replacement.

F. Additional Conditions

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

1. Coinsurance

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

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

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

- (1) Multiply the value of Covered Property at the time of loss by the Coinsurance percentage;
- (2) Divide the Limit of Insurance of the property by the figure determined in Step (1);
- (3) Multiply the total amount of loss, before the application of any deductible, by the figure determined in Step (2); and
- (4) Subtract the deductible from the figure determined in Step (3).

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

Example 1 (Underinsurance)

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

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

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

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

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

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

Example 2 (Adequate Insurance)

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

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

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

Example 3

When: The value of the property is:

Building at Location 1:	\$ 75,000
Building at Location 2:	\$ 100,000
Personal Property at Location 2:	<u>\$ 75,000</u>
	\$ 250,000
The Coinsurance percentage for it is: 90%	
The Limit of Insurance for Buildings and Personal Property at Locations 1 and 2 is:	\$ 180,000
The Deductible is:	\$ 1,000
The amount of loss is:	
Building at Location 2:	\$ 30,000
Personal Property at Location 2:	<u>\$ 20,000</u>
	\$ 50,000

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

Step (2): \$180,000 ÷ \$225,000 = .80

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

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

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

2. Mortgageholders

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

- (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
- (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

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

- e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Part:
 - (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
 - (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

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

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

G. Optional Coverages

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

1. Agreed Value

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

- b. If the expiration date for this Optional Coverage shown in the Declarations is not extended, the Additional Condition, Coinsurance, is reinstated and this Optional Coverage expires.
- c. The terms of this Optional Coverage apply only to loss or damage that occurs:
 - (1) On or after the effective date of this Optional Coverage; and
 - (2) Before the Agreed Value expiration date shown in the Declarations or the policy expiration date, whichever occurs first.

2. Inflation Guard

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

Example

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

3. Replacement Cost

- a. Replacement Cost (without deduction for depreciation) replaces Actual Cash Value in the Valuation Loss Condition of this Coverage Form.
- b. This Optional Coverage does not apply to:
 - (1) Personal property of others;
 - (2) Contents of a residence;
 - (3) Works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac; or

- (4) "Stock", unless the Including "Stock" option is shown in the Declarations.

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

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

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

- (3) If the conditions in d.(1) and d.(2) above are not met, the value of tenants' improvements and betterments will be determined as a proportion of your original cost, as set forth in the Valuation Loss Condition of this Coverage Form; and
- (4) We will not pay for loss or damage to tenants' improvements and betterments if others pay for repairs or replacement.

- e. We will not pay more for loss or damage on a replacement cost basis than the least of (1), (2) or (3), subject to f. below:

- (1) The Limit of Insurance applicable to the lost or damaged property;
- (2) The cost to replace the lost or damaged property with other property:
 - (a) Of comparable material and quality; and
 - (b) Used for the same purpose; or
- (3) The amount actually spent that is necessary to repair or replace the lost or damaged property.

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

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

4. Extension Of Replacement Cost To Personal Property Of Others

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

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

H. Definitions

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

BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM

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

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

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

A. Coverage

1. Business Income

Business Income means the:

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

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

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

- (1) Business Income Including "Rental Value".
- (2) Business Income Other Than "Rental Value".
- (3) "Rental Value".

If option (1) above is selected, the term Business Income will include "Rental Value". If option (3) above is selected, the term Business Income will mean "Rental Value" only.

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

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

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

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

2. Extra Expense

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

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

- (1) Avoid or minimize the "suspension" of business and to continue operations at the described premises or at replacement premises or temporary locations, including relocation expenses and costs to equip and operate the replacement location or temporary location.

- (2) Minimize the "suspension" of business if you cannot continue "operations".

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

3. Covered Causes Of Loss, Exclusions And Limitations

See applicable Causes Of Loss form as shown in the Declarations.

4. Additional Limitation - Interruption Of Computer Operations

- a. Coverage for Business Income does not apply when a "suspension" of "operations" is caused by destruction or corruption of electronic data, or any loss or damage to electronic data, except as provided under the Additional Coverage, Interruption Of Computer Operations.
- b. Coverage for Extra Expense does not apply when action is taken to avoid or minimize a "suspension" of "operations" caused by destruction or corruption of electronic data, or any loss or damage to electronic data, except as provided under the Additional Coverage, Interruption Of Computer Operations.
- c. Electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.
- d. This Additional Limitation does not apply when loss or damage to electronic data involves only electronic data which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

5. Additional Coverages

a. Civil Authority

In this Additional Coverage, Civil Authority, the described premises are premises to which this Coverage Form applies, as shown in the Declarations.

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

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

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

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

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

whichever is later.

b. Alterations And New Buildings

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

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

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

c. Extended Business Income**(1) Business Income Other Than "Rental Value"**

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

- (a) Begins on the date property (except "finished stock") is actually repaired, rebuilt or replaced and "operations" are resumed; and
- (b) Ends on the earlier of:
 - (i) The date you could restore your "operations", with reasonable speed, to the level which would generate the business income amount that would have existed if no direct physical loss or damage had occurred; or
 - (ii) 60 consecutive days after the date determined in (1)(a) above.

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

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

(2) "Rental Value"

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

- (a) Begins on the date property is actually repaired, rebuilt or replaced and tenantability is restored; and
- (b) Ends on the earlier of:
 - (i) The date you could restore tenant occupancy, with reasonable speed, to the level which would generate the "Rental Value" that would have existed if no direct physical loss or damage had occurred; or
 - (ii) 60 consecutive days after the date determined in (2)(a) above.

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

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

d. Interruption Of Computer Operations

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

- (2) Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a "suspension" of "operations" caused by an interruption in computer operations due to destruction or corruption of electronic data due to a Covered Cause of Loss. However, we will not provide coverage under this Additional Coverage when the Additional Limitation - Interruption Of Computer Operations does not apply based on Paragraph A.4.d. therein.
- (3) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:
- (a) If the Causes Of Loss - Special Form applies, coverage under this Additional Coverage, Interruption Of Computer Operations, is limited to the "specified causes of loss" as defined in that form and Collapse as set forth in that form.
 - (b) If the Causes Of Loss - Broad Form applies, coverage under this Additional Coverage, Interruption Of Computer Operations, includes Collapse as set forth in that form.
 - (c) If the Causes Of Loss form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage, Interruption Of Computer Operations.
 - (d) The Covered Causes of Loss include a virus, harmful code or similar instruction introduced into or enacted on a computer system (including electronic data) or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for an interruption related to manipulation of a computer system (including electronic data) by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, maintain, repair or replace that system.
- (4) The most we will pay under this Additional Coverage, Interruption Of Computer Operations, is \$2,500 (unless a higher limit is shown in the Declarations) for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved. If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or incurred in the policy year in which the interruption began.
- (5) This Additional Coverage, Interruption Of Computer Operations, does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in (4) above has not been exhausted.
- 6. Coverage Extension**
- If a Coinsurance percentage of 50% or more is shown in the Declarations, you may extend the insurance provided by this Coverage Part as follows:
- Newly Acquired Locations**
- a. You may extend your Business Income and Extra Expense Coverages to apply to property at any location you acquire other than fairs or exhibitions.
 - b. The most we will pay under this Extension, for the sum of Business Income loss and Extra Expense incurred, is \$100,000 at each location, unless a higher limit is shown in the Declarations.
 - c. Insurance under this Extension for each newly acquired location will end when any of the following first occurs:
 - (1) This policy expires;

(2) 30 days expire after you acquire or begin to construct the property; or

(3) You report values to us.

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

The Additional Condition, Coinsurance, does not apply to this Extension.

B. Limits Of Insurance

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

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

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

The amounts of insurance stated in the Interruption Of Computer Operations Additional Coverage and the Newly Acquired Locations Coverage Extension apply in accordance with the terms of those coverages and are separate from the Limit(s) Of Insurance shown in the Declarations for any other coverage.

C. Loss Conditions

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

1. Appraisal

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

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

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

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

2. Duties In The Event Of Loss

a. You must see that the following are done in the event of loss:

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

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

3. Loss Determination

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

- (1) The Net Income of the business before the direct physical loss or damage occurred;
- (2) The likely Net Income of the business if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses;
- (3) The operating expenses, including payroll expenses, necessary to resume "operations" with the same quality of service that existed just before the direct physical loss or damage; and
- (4) Other relevant sources of information, including:
 - (a) Your financial records and accounting procedures;
 - (b) Bills, invoices and other vouchers; and
 - (c) Deeds, liens or contracts.

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

- (1) All expenses that exceed the normal operating expenses that would have been incurred by "operations" during the "period of restoration" if no direct physical loss or damage had occurred. We will deduct from the total of such expenses:
 - (a) The salvage value that remains of any property bought for temporary use during the "period of restoration", once "operations" are resumed; and
 - (b) Any Extra Expense that is paid for by other insurance, except for insurance that is written subject to the same plan, terms, conditions and provisions as this insurance; and
- (2) Necessary expenses that reduce the Business Income loss that otherwise would have been incurred.

c. Resumption Of Operations

We will reduce the amount of your:

- (1) Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.
 - (2) Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.
- d. If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

4. Loss Payment

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

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

D. Additional Condition

COINSURANCE

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

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

- 1. The Coinsurance percentage shown for Business Income in the Declarations; times
- 2. The sum of:
 - a. The Net Income (Net Profit or Loss before income taxes), and
 - b. Operating expenses, including payroll expenses,
 that would have been earned or incurred (had no loss occurred) by your "operations" at the described premises for the 12 months following the inception, or last previous anniversary date, of this policy (whichever is later).

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

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

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

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

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

Example 1 (Underinsurance)

When: The Net Income and operating expenses for the 12 months following the inception, or last previous anniversary date, of this policy at the described premises would have been: \$ 400,000

The Coinsurance percentage is: 50%

The Limit of Insurance is: \$ 150,000

The amount of loss is: \$ 80,000

Step (1): $\$400,000 \times 50\% = \$200,000$
(the minimum amount of insurance to meet your Coinsurance requirements)

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

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

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

Example 2 (Adequate Insurance)

When: The Net Income and operating expenses for the 12 months following the inception, or last previous anniversary date, of this policy at the described premises would have been: \$ 400,000

The Coinsurance percentage is: 50%

The Limit of Insurance is: \$ 200,000

The amount of loss is: \$ 80,000

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

This condition does not apply to Extra Expense Coverage.

E. Optional Coverages

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

1. Maximum Period Of Indemnity

- a. The Additional Condition, Coinsurance, does not apply to this Coverage Form at the described premises to which this Optional Coverage applies.

b. The most we will pay for the total of Business Income loss and Extra Expense is the lesser of:

- (1) The amount of loss sustained and expenses incurred during the 120 days immediately following the beginning of the "period of restoration"; or
- (2) The Limit Of Insurance shown in the Declarations.

2. Monthly Limit Of Indemnity

a. The Additional Condition, Coinsurance, does not apply to this Coverage Form at the described premises to which this Optional Coverage applies.

b. The most we will pay for loss of Business Income in each period of 30 consecutive days after the beginning of the "period of restoration" is:

- (1) The Limit of Insurance, multiplied by
- (2) The fraction shown in the Declarations for this Optional Coverage.

Example

When: The Limit of Insurance is: \$ 120,000
 The fraction shown in the Declarations for this Optional Coverage is: 1/4
 The most we will pay for loss in each period of 30 consecutive days is: \$ 30,000
 (\$120,000 x 1/4 = \$30,000)
 If, in this example, the actual amount of loss is:

Days 1-30:	\$ 40,000
Days 31-60:	\$ 20,000
Days 61-90:	<u>\$ 30,000</u>
	\$ 90,000

We will pay:

Days 1-30:	\$ 30,000
Days 31-60:	\$ 20,000
Days 61-90:	<u>\$ 30,000</u>
	\$ 80,000

The remaining \$10,000 is not covered.

3. Business Income Agreed Value

- a.** To activate this Optional Coverage:
 - (1) A Business Income Report/Work Sheet must be submitted to us and must show financial data for your "operations":
 - (a) During the 12 months prior to the date of the Work Sheet; and

- (b) Estimated for the 12 months immediately following the inception of this Optional Coverage.

- (2) The Declarations must indicate that the Business Income Agreed Value Optional Coverage applies, and an Agreed Value must be shown in the Declarations. The Agreed Value should be at least equal to:

- (a) The Coinsurance percentage shown in the Declarations; multiplied by

- (b) The amount of Net Income and operating expenses for the following 12 months you report on the Work Sheet.

b. The Additional Condition, Coinsurance, is suspended until:

- (1) 12 months after the effective date of this Optional Coverage; or
- (2) The expiration date of this policy; whichever occurs first.

c. We will reinstate the Additional Condition, Coinsurance, automatically if you do not submit a new Work Sheet and Agreed Value:

- (1) Within 12 months of the effective date of this Optional Coverage; or
- (2) When you request a change in your Business Income Limit of Insurance.

d. If the Business Income Limit of Insurance is less than the Agreed Value, we will not pay more of any loss than the amount of loss multiplied by:

- (1) The Business Income Limit of Insurance; divided by
- (2) The Agreed Value.

Example

When: The Limit of Insurance is: \$ 100,000
 The Agreed Value is: \$ 200,000
 The amount of loss is: \$ 80,000

Step (1): $\$100,000 \div \$200,000 = .50$

Step (2): $.50 \times \$80,000 = \$40,000$

We will pay \$40,000. The remaining \$40,000 is not covered.

4. Extended Period Of Indemnity

Under Paragraph A.5.c., **Extended Business Income**, the number 60 in Subparagraphs (1)(b) and (2)(b) is replaced by the number shown in the Declarations for this Optional Coverage.

F. Definitions

1. "Finished stock" means stock you have manufactured.

"Finished stock" also includes whiskey and alcoholic products being aged, unless there is a Coinsurance percentage shown for Business Income in the Declarations.

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

2. "Operations" means:
 - a. Your business activities occurring at the described premises; and
 - b. The tenantability of the described premises, if coverage for Business Income Including "Rental Value" or "Rental Value" applies.
3. "Period of restoration" means the period of time that:
 - a. Begins:
 - (1) 72 hours after the time of direct physical loss or damage for Business Income Coverage; or
 - (2) Immediately after the time of direct physical loss or damage for Extra Expense Coverage;
 caused by or resulting from any Covered Cause of Loss at the described premises; and
 - b. Ends on the earlier of:
 - (1) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or
 - (2) The date when business is resumed at a new permanent location.

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

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

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

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

4. "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.
5. "Rental Value" means Business Income that consists of:
 - a. Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred as rental income from tenant occupancy of the premises described in the Declarations as furnished and equipped by you, including fair rental value of any portion of the described premises which is occupied by you; and
 - b. Continuing normal operating expenses incurred in connection with that premises, including:
 - (1) Payroll; and
 - (2) The amount of charges which are the legal obligation of the tenant(s) but would otherwise be your obligations.
6. "Suspension" means:
 - a. The slowdown or cessation of your business activities; or
 - b. That a part or all of the described premises is rendered untenable, if coverage for Business Income Including "Rental Value" or "Rental Value" applies.

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COMMERCIAL PROPERTY CONDITIONS

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

A. CONCEALMENT, MISREPRESENTATION OR FRAUD

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

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

B. CONTROL OF PROPERTY

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

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

C. INSURANCE UNDER TWO OR MORE COVERAGES

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

D. LEGAL ACTION AGAINST US

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

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

E. LIBERALIZATION

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

F. NO BENEFIT TO BAILEE

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

G. OTHER INSURANCE

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

H. POLICY PERIOD, COVERAGE TERRITORY

Under this Coverage Part:

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

I. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

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

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

This will not restrict your insurance.

POLICY NUMBER: **NN1000793****COMMERCIAL PROPERTY
CP 04 11 10 12**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PROTECTIVE SAFEGUARDS

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART
STANDARD PROPERTY POLICY**SCHEDULE**

Premises Number	Building Number	Protective Safeguards Symbols Applicable
1	1	P-5 - Automatic Commercial Cooking Exhaust and Extinguishing System

Describe any "P-9":

Fire extinguishers must be tagged and serviced annually by outside contractor
 K fire extinguisher in the cooking area
 P-2 Automatic Fire Alarm

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

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

1. As a condition of this insurance, you are required to maintain the protective devices or services listed in the Schedule above.
2. The protective safeguards to which this endorsement applies are identified by the following symbols:

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

Automatic Sprinkler System means:

- a. Any automatic fire protective or extinguishing system, including connected:
 - (1) Sprinklers and discharge nozzles;
 - (2) Ducts, pipes, valves and fittings;
 - (3) Tanks, their component parts and supports; and
 - (4) Pumps and private fire protection mains.
- b. When supplied from an automatic fire protective system:
 - (1) Non-automatic fire protective systems; and

(2) Hydrants, standpipes and outlets.

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

- a. Connected to a central station; or
- b. Reporting to a public or private fire alarm station.

"P-3" Security Service, with a recording system or watch clock, making hourly rounds covering the entire building, when the premises are not in actual operation.**"P-4" Service Contract** with a privately owned fire department providing fire protection service to the described premises.**"P-5" Automatic Commercial Cooking Exhaust And Extinguishing System** installed on cooking appliances and having the following components:

- a. Hood;
- b. Grease removal device;
- c. Duct system; and
- d. Wet chemical fire extinguishing equipment.

"P-9", the protective system described in the Schedule.

B. The following is added to the Exclusions section of:

Causes Of Loss - Basic Form

Causes Of Loss - Broad Form

Causes Of Loss - Special Form

Mortgageholders Errors And Omissions Coverage Form

Standard Property Policy

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

1. Knew of any suspension or impairment in any protective safeguard listed in the Schedule above and failed to notify us of that fact; or

2. Failed to maintain any protective safeguard listed in the Schedule above, and over which you had control, in complete working order.

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

CAUSES OF LOSS - SPECIAL FORM

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

A. Covered Causes Of Loss

When Special is shown in the Declarations, Covered Causes of Loss means direct physical loss unless the loss is excluded or limited in this policy.

B. Exclusions

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

a. Ordinance Or Law

The enforcement of or compliance with any ordinance or law:

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

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

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

b. Earth Movement

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

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

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

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

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

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

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

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

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

c. Governmental Action

Seizure or destruction of property by order of governmental authority.

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

d. Nuclear Hazard

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

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

e. Utility Services

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

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

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

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

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

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

f. War And Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

g. Water

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

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

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

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

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

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

This exclusion does not apply:

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

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

- 2. We will not pay for loss or damage caused by or resulting from any of the following:
 - a. Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:
 - (1) Electrical or electronic wire, device, appliance, system or network; or
 - (2) Device, appliance, system or network utilizing cellular or satellite technology.

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

- (a) Electrical current, including arcing;
- (b) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (c) Pulse of electromagnetic energy; or
- (d) Electromagnetic waves or microwaves.

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

- b. Delay, loss of use or loss of market.
- c. Smoke, vapor or gas from agricultural smudging or industrial operations.
- d. (1) Wear and tear;
- (2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;
- (4) Settling, cracking, shrinking or expansion;

- (5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals.
- (6) Mechanical breakdown, including rupture or bursting caused by centrifugal force. But if mechanical breakdown results in elevator collision, we will pay for the loss or damage caused by that elevator collision.
- (7) The following causes of loss to personal property:
 - (a) Dampness or dryness of atmosphere;
 - (b) Changes in or extremes of temperature; or
 - (c) Marring or scratching.

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

- e. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
- f. Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.
- g. Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:
 - (1) You do your best to maintain heat in the building or structure; or

(2) You drain the equipment and shut off the supply if the heat is not maintained.

h. Dishonest or criminal act (including theft) by you, any of your partners, members, officers, managers, employees (including temporary employees and leased workers), directors, trustees or authorized representatives, whether acting alone or in collusion with each other or with any other party; or theft by any person to whom you entrust the property for any purpose, whether acting alone or in collusion with any other party.

This exclusion:

(1) Applies whether or not an act occurs during your normal hours of operation;

(2) Does not apply to acts of destruction by your employees (including temporary employees and leased workers) or authorized representatives; but theft by your employees (including temporary employees and leased workers) or authorized representatives is not covered.

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

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

k. Collapse, including any of the following conditions of property or any part of the property:

(1) An abrupt falling down or caving in;

(2) Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or

(3) Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to **(1)** or **(2)** above.

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

This exclusion, **k.**, does not apply:

(a) To the extent that coverage is provided under the Additional Coverage, Collapse; or

(b) To collapse caused by one or more of the following:

(i) The "specified causes of loss";

(ii) Breakage of building glass;

(iii) Weight of rain that collects on a roof; or

(iv) Weight of people or personal property.

l. Discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

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

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

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

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

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

c. Faulty, inadequate or defective:

(1) Planning, zoning, development, surveying, siting;

(2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;

(3) Materials used in repair, construction, renovation or remodeling; or

(4) Maintenance;

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

4. Special Exclusions

The following provisions apply only to the specified Coverage Forms:

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

We will not pay for:

- (1) Any loss caused by or resulting from:
 - (a) Damage or destruction of "finished stock"; or
 - (b) The time required to reproduce "finished stock".

This exclusion does not apply to Extra Expense.

- (2) Any loss caused by or resulting from direct physical loss or damage to radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers.
- (3) Any increase of loss caused by or resulting from:
 - (a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or
 - (b) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the "suspension" of "operations", we will cover such loss that affects your Business Income during the "period of restoration" and any extension of the "period of restoration" in accordance with the terms of the Extended Business Income Additional Coverage and the Extended Period Of Indemnity Optional Coverage or any variation of these.
- (4) Any Extra Expense caused by or resulting from suspension, lapse or cancellation of any license, lease or contract beyond the "period of restoration".

- (5) Any other consequential loss.

b. Leasehold Interest Coverage Form

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

c. Legal Liability Coverage Form

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

(a) Contractual Liability

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

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

(b) Nuclear Hazard

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

5. Additional Exclusion

The following provisions apply only to the specified property:

Loss Or Damage To Products

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

C. Limitations

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

1. We will not pay for loss of or damage to property, as described and limited in this section. In addition, we will not pay for any loss that is a consequence of loss or damage as described and limited in this section.

- a. Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
- b. Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.
- c. The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
 - (1) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or
 - (2) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.

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

However, this limitation does not apply to:

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

- e. Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property.
 - f. Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
 - g. Lawns, trees, shrubs or plants which are part of a vegetated roof, caused by or resulting from:
 - (1) Dampness or dryness of atmosphere or of soil supporting the vegetation;
 - (2) Changes in or extremes of temperature;
 - (3) Disease;
 - (4) Frost or hail; or
 - (5) Rain, snow, ice or sleet.
2. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:
 - a. Animals, and then only if they are killed or their destruction is made necessary.
 - b. Fragile articles such as statuary, marbles, chinaware and porcelains, if broken. This restriction does not apply to:
 - (1) Glass; or
 - (2) Containers of property held for sale.
 - c. Builders' machinery, tools and equipment owned by you or entrusted to you, provided such property is Covered Property.

However, this limitation does not apply:

 - (1) If the property is located on or within 100 feet of the described premises, unless the premises is insured under the Builders Risk Coverage Form; or
 - (2) To Business Income Coverage or to Extra Expense Coverage.

3. The special limit shown for each category, a. through d., is the total limit for loss of or damage to all property in that category. The special limit applies to any one occurrence of theft, regardless of the types or number of articles that are lost or damaged in that occurrence. The special limits are (unless a higher limit is shown in the Declarations):

- a. \$2,500 for furs, fur garments and garments trimmed with fur.
- b. \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
- c. \$2,500 for patterns, dies, molds and forms.
- d. \$250 for stamps, tickets, including lottery tickets held for sale, and letters of credit.

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

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

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

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

D. Additional Coverage - Collapse

The coverage provided under this Additional Coverage, Collapse, applies only to an abrupt collapse as described and limited in D.1. through D.7.

1. For the purpose of this Additional Coverage, Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.

2. We will pay for direct physical loss or damage to Covered Property, caused by abrupt collapse of a building or any part of a building that is insured under this Coverage Form or that contains Covered Property insured under this Coverage Form, if such collapse is caused by one or more of the following:

- a. Building decay that is hidden from view, unless the presence of such decay is known to an insured prior to collapse;
- b. Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;
- c. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation.
- d. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete, but only if the collapse is caused in part by:
 - (1) A cause of loss listed in 2.a. or 2.b.;
 - (2) One or more of the "specified causes of loss";
 - (3) Breakage of building glass;
 - (4) Weight of people or personal property; or
 - (5) Weight of rain that collects on a roof.

3. This **Additional Coverage - Collapse** does not apply to:

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

4. With respect to the following property:

- a. Outdoor radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers;

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

if an abrupt collapse is caused by a cause of loss listed in 2.a. through 2.d., we will pay for loss or damage to that property only if:

(1) Such loss or damage is a direct result of the abrupt collapse of a building insured under this Coverage Form; and

(2) The property is Covered Property under this Coverage Form.

- 5. If personal property abruptly falls down or caves in and such collapse is **not** the result of abrupt collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if:
 - a. The collapse of personal property was caused by a cause of loss listed in 2.a. through 2.d.;
 - b. The personal property which collapses is inside a building; and
 - c. The property which collapses is not of a kind listed in 4., regardless of whether that kind of property is considered to be personal property or real property.

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

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

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

- 1. The coverage described in E.2. and E.6. only applies when the "fungus", wet or dry rot or bacteria are the result of one or more of the following causes that occur during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence:

- a. A "specified cause of loss" other than fire or lightning; or
- b. Flood, if the Flood Coverage Endorsement applies to the affected premises.

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

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

- a. Direct physical loss or damage to Covered Property caused by "fungus", wet or dry rot or bacteria, including the cost of removal of the "fungus", wet or dry rot or bacteria;
- b. The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungus", wet or dry rot or bacteria; and
- c. The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungus", wet or dry rot or bacteria are present.

- 3. The coverage described under E.2. of this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of "specified causes of loss" (other than fire or lightning) and Flood which take place in a 12-month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss which results in "fungus", wet or dry rot or bacteria, we will not pay more than a total of \$15,000 even if the "fungus", wet or dry rot or bacteria continue to be present or active, or recur, in a later policy period.

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

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

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

F. Additional Coverage Extensions

1. Property In Transit

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

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

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

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

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material damage loss occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes. This Coverage Extension does not increase the Limit of Insurance.

3. Glass

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

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

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

G. Definitions

- 1. "Fungus" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
- 2. "Specified causes of loss" means the following:
 - fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire-extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.
 - a. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:
 - (1) The cost of filling sinkholes; or
 - (2) Sinking or collapse of land into man-made underground cavities.
 - b. Falling objects does not include loss or damage to:
 - (1) Personal property in the open; or
 - (2) The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.

- c. Water damage means:

- (1) Accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of a plumbing, heating, air conditioning or other system or appliance (other than a sump system including its related equipment and parts), that is located on the described premises and contains water or steam; and
- (2) Accidental discharge or leakage of water or waterborne material as the direct result of the breaking apart or cracking of a water or sewer pipe that is located off the described premises and is part of a municipal potable water supply system or municipal sanitary sewer system, if the breakage or cracking is caused by wear and tear.

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

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

POLICY NUMBER: **NN1000793****COMMERCIAL PROPERTY
CP 12 11 10 00**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BURGLARY AND ROBBERY PROTECTIVE SAFEGUARDS

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART

SCHEDULE*

Premises No.	Building No.	Property Safeguards Symbols Applicable
1	1	BR-1

Describe any "BR-4":

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

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

BURGLARY AND ROBBERY PROTECTIVE SAFEGUARDS

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

- c. "BR-3" Security Service, with a recording system or watch clock, making hourly rounds covering the entire building, when the premises are not in actual operation.
- d. "BR-4" The protective safeguard described in the Schedule.

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

BURGLARY AND ROBBERY PROTECTIVE SAFEGUARDS

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

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

POLICY NUMBER: **NN1000793**

COMMERCIAL PROPERTY
CP 12 18 10 12

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LOSS PAYABLE PROVISIONS

This endorsement modifies insurance provided under the following:

- BUILDERS' RISK COVERAGE FORM
- BUILDING AND PERSONAL PROPERTY COVERAGE FORM
- CONDOMINIUM ASSOCIATION COVERAGE FORM
- CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM
- STANDARD PROPERTY POLICY

SCHEDULE

Location Number: 1 **Building Number:** 1 **Applicable Clause**
(Enter C.1., C.2., C.3. or C.4.): C.2

Description Of Property: Bar/Tavern/Restaurant

Loss Payee Name: Ascentium Capital LLC, ISAOA
Insurance Service Center

Loss Payee Address: P.O. Box 979050
Miami FL 33197 - 9059

Location Number: **Building Number:** **Applicable Clause**
(Enter C.1., C.2., C.3. or C.4.):

Description Of Property:

Loss Payee Name:

Loss Payee Address:

Location Number: **Building Number:** **Applicable Clause**
(Enter C.1., C.2., C.3. or C.4.):

Description Of Property:

Loss Payee Name:

Loss Payee Address:

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

- A. When this endorsement is attached to the Standard Property Policy **CP 00 99**, the term Coverage Part in this endorsement is replaced by the term Policy.
- B. Nothing in this endorsement increases the applicable Limit of Insurance. We will not pay any Loss Payee more than their financial interest in the Covered Property, and we will not pay more than the applicable Limit of Insurance on the Covered Property.
- C. The following is added to the **Loss Payment Loss Condition**, as indicated in the Declarations or in the Schedule:

1. Loss Payable Clause

For Covered Property in which both you and a Loss Payee shown in the Schedule or in the Declarations have an insurable interest, we will:

- a. Adjust losses with you; and
- b. Pay any claim for loss or damage jointly to you and the Loss Payee, as interests may appear

2. Lender's Loss Payable Clause

a. The Loss Payee shown in the Schedule or in the Declarations is a creditor, including a mortgageholder or trustee, whose interest in Covered Property is established by such written instruments as:

- (1) Warehouse receipts;
- (2) A contract for deed;
- (3) Bills of lading;
- (4) Financing statements; or
- (5) Mortgages, deeds of trust, or security agreements.

b. For Covered Property in which both you and a Loss Payee have an insurable interest:

- (1) We will pay for covered loss or damage to each Loss Payee in their order of precedence, as interests may appear.
- (2) The Loss Payee has the right to receive loss payment even if the Loss Payee has started foreclosure or similar action on the Covered Property.

(3) If we deny your claim because of your acts or because you have failed to comply with the terms of the Coverage Part, the Loss Payee will still have the right to receive loss payment if the Loss Payee:

- (a) Pays any premium due under this Coverage Part at our request if you have failed to do so;
- (b) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
- (c) Has notified us of any change in ownership, occupancy or substantial change in risk known to the Loss Payee.

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

(4) If we pay the Loss Payee for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Part:

- (a) The Loss Payee's rights will be transferred to us to the extent of the amount we pay; and
- (b) The Loss Payee's rights to recover the full amount of the Loss Payee's claim will not be impaired.

At our option, we may pay to the Loss Payee the whole principal on the debt plus any accrued interest. In this event, you will pay your remaining debt to us.

c. If we cancel this policy, we will give written notice to the Loss Payee at least:

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

d. If we elect not to renew this policy, we will give written notice to the Loss Payee at least 10 days before the expiration date of this policy.

3. Contract Of Sale Clause

- a. The Loss Payee shown in the Schedule or in the Declarations is a person or organization you have entered into a contract with for the sale of Covered Property.
- b. For Covered Property in which both you and the Loss Payee have an insurable interest, we will:
 - (1) Adjust losses with you; and
 - (2) Pay any claim for loss or damage jointly to you and the Loss Payee, as interests may appear.
- c. The following is added to the **Other Insurance Condition**:

For Covered Property that is the subject of a contract of sale, the word "you" includes the Loss Payee.

4. Building Owner Loss Payable Clause

- a. The Loss Payee shown in the Schedule or in the Declarations is the owner of the described building in which you are a tenant.
- b. We will adjust losses to the described building with the Loss Payee. Any loss payment made to the Loss Payee will satisfy your claims against us for the owner's property.
- c. We will adjust losses to tenants' improvements and betterments with you, unless the lease provides otherwise.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF CERTAIN COMPUTER-RELATED LOSSES

This endorsement modifies insurance provided under the following:

COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
STANDARD PROPERTY POLICY

- 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 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; or
 - (6)** Any other computerized or electronic equipment or components; or
 - b.** Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph **A.1.a.** of this endorsement;

due 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 **A.1.** of this endorsement.
- B.** If an excluded Cause of Loss as described in Paragraph **A.** of this endorsement results:
- 1.** In a Covered Cause of Loss under the Crime and Fidelity Coverage Part, the Commercial Inland Marine Coverage Part or the Standard Property Policy; or
 - 2.** Under the Commercial Property Coverage Part:
 - a.** In a "Specified Cause of Loss", or in elevator collision resulting from mechanical breakdown, under the Causes of Loss - Special Form; or
 - b.** In a Covered Cause of Loss under the Causes Of Loss - Basic Form or the Causes Of Loss - Broad Form;we will pay only for the loss ("loss") or damage caused by such "Specified Cause of Loss", elevator collision, or Covered Cause of Loss.
- C.** We will not pay for repair, replacement or modification of any items in Paragraphs **A.1.a.** and **A.1.b.** of this endorsement to correct any deficiencies or change any features.

POLICY NUMBER: **NN1000793**

IL 09 53 01 15

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

- BOILER AND MACHINERY COVERAGE PART
- COMMERCIAL INLAND MARINE COVERAGE PART
- COMMERCIAL PROPERTY COVERAGE PART
- CRIME AND FIDELITY COVERAGE PART
- EQUIPMENT BREAKDOWN COVERAGE PART
- FARM COVERAGE PART
- STANDARD PROPERTY POLICY

SCHEDULE

The **Exception Covering Certain Fire Losses (Paragraph C)** applies to property located in the following state(s), if covered under the indicated Coverage Form, Coverage Part or Policy:

State(s)	Coverage Form, Coverage Part Or Policy

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

A. The following definition is added with respect to the provisions of this endorsement:

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and

2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

B. The following exclusion is added:

CERTIFIED ACT OF TERRORISM EXCLUSION

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

C. **Exception Covering Certain Fire Losses**

The following exception to the exclusion in Paragraph **B.** applies only if indicated and as indicated in the Schedule of this endorsement.

If a "certified act of terrorism" results in fire, we will pay for the loss or damage caused by that fire. Such coverage for fire applies only to direct loss or damage by fire to Covered Property. Therefore, for example, the coverage does not apply to insurance provided under Business Income and/or Extra Expense coverage forms or endorsements which apply to those forms, or to the Legal Liability Coverage Form or the Leasehold Interest Coverage Form.

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

D. **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 Part or Policy, such as losses excluded by the Nuclear Hazard Exclusion or the War And Military Action Exclusion.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ACTUAL CASH VALUE

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL CRIME COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
FARM COVERAGE PART

The following is **added** to any provision, which uses the term Actual Cash Value:

Actual cash value is calculated as the amount it would cost to repair or replace Covered Property, at the time of loss or damage, with material of like kind and quality, subject to a deduction for deterioration, depreciation and obsolescence. Actual Cash Value applies to valuation of Covered Property regardless of whether that property has sustained partial or total loss or damage.

The Actual Cash Value of the lost or damaged property may be significantly less than its replacement cost.

All other terms and conditions remain unchanged.

COMMERCIAL PROPERTY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - PROPERTY POLLUTION

This endorsement modifies insurance provided under the following:

BUILDERS RISK COVERAGE FORM
BUILDING AND PERSONAL PROPERTY COVERAGE FORM
CONDOMINIUM ASSOCIATION COVERAGE FORM
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM
CAUSES OF LOSS - BASIC FORM
CAUSES OF LOSS - BROAD FORM
CAUSES OF LOSS - SPECIAL FORM
STANDARD PROPERTY POLICY

A. When referenced in the coverage form, **Pollutant Clean Up and Removal** under **Additional Coverages** is **deleted**.

B. The following is **added** to the **Exclusions** section:

PROPERTY POLLUTION

We will not pay for loss, damage or expense caused directly or indirectly, in whole or in part, by the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants". Nor will we cover any loss, damage or expense arising out of any:

1. 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
2. Claim or suit by or on behalf of a government 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".

Such loss, damage or expense is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

This exclusion also applies to personal property contained in any man-made structure.

C. "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.

All other terms and conditions of this policy remain unchanged.

COMMERCIAL PROPERTY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION - MICROORGANISMS, BIOLOGICAL ORGANISMS,
BIOAEROSOLS OR ORGANIC CONTAMINANTS, IRRITANTS OR
POLLUTANTS**

This endorsement modifies insurance provided under the following:

CAUSES OF LOSS - BASIC FORM
CAUSES OF LOSS - BROAD FORM
CAUSES OF LOSS - SPECIAL FORM
STANDARD PROPERTY POLICY

- A. Paragraph h. "Fungus", Wet Rot, Dry Rot and Bacteria of section B. Exclusions is replaced by the following:**
We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.
1. Any microorganisms, biological organisms, bioaerosols or organic contaminants, irritants or "pollutants", including but not limited to mold, mildew, "fungus", spores, yeast or other toxins, mycotoxins, allergens, infectious agents, wet or dry rot or rust, or any materials containing them at any time, regardless of the cause of growth, proliferation or secretion; or
 2. Rust, corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself.
- B. In the Causes of Loss - Basic, Broad and Special Forms, Additional Coverage - Limited Coverage for "Fungus", Wet Rot, Dry Rot and Bacteria is deleted in its entirety.**
- C. In the Standard Property Policy, Additional Coverages, f. - Limited Coverage for "Fungus", Wet Rot, Dry Rot and Bacteria is deleted in its entirety.**

All other terms and conditions of this policy remain unchanged.

COMMERCIAL PROPERTY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF COVERAGE - COLLAPSE

This endorsement modifies insurance provided under the following:

CAUSES OF LOSS - BROAD FORM
CAUSES OF LOSS - SPECIAL FORM

The following **replaces** paragraph **3.a.** of **Additional Coverage - Collapse**:

- a. A building or any part of a building that is in danger of falling down or caving in, even if such danger of falling down or caving in is imminent;

All other terms and conditions remain unchanged.

COMMERCIAL PROPERTY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART
STANDARD PROPERTY POLICY

- A.** The exclusion set forth in Paragraph **B.** applies to all coverage under all forms and endorsements that comprise this Coverage Part or Policy, including but not limited to forms or endorsements that cover property damage to buildings or personal property and forms or endorsements that cover business income, extra expense or action of civil authority.
- B.** We will not pay for loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.

However, this exclusion does not apply to loss or damage caused by or resulting from "fungus", wet rot or dry rot. Such loss or damage is addressed in a separate exclusion in this Coverage Part or Policy.

- C.** With respect to any loss or damage subject to the exclusion in Paragraph **B.**, such exclusion supersedes any exclusion relating to "pollutants".
- D.** The terms of the exclusion in Paragraph **B.**, or the inapplicability of this exclusion to a particular loss, do not serve to create coverage for any loss that would otherwise be excluded under this Coverage Part or Policy.

All other terms and conditions remain unchanged.

COMMERCIAL PROPERTY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EQUIPMENT BREAKDOWN ENHANCEMENT ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM
BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM
BUSINESS INCOME (WITHOUT EXTRA EXPENSE) COVERAGE FORM
CAUSES OF LOSS - BASIC FORM
CAUSES OF LOSS - BROAD FORM
CAUSES OF LOSS - SPECIAL FORM
EXTRA EXPENSE COVERAGE FORM

A. With respect to the insurance provided by this endorsement, the following replaces **4.d. Pollutant Clean Up And Removal** under **Additional Coverages of Section A. Coverage of the Building And Personal Property Coverage Form**:

d. Pollutant Clean Up And Removal

We will pay your expense to extract "pollutants" from land or water at the described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from an "Equipment Breakdown" that occurs during the policy period. The most we will pay under this Additional Coverage is \$250,000 for the sum of all covered expenses arising out of an "Equipment Breakdown" occurring during the policy period, unless a higher limit is provided by an endorsement to the property form to which this endorsement is attached. In that case, whichever limit is greater will apply.

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

B. With respect to the insurance provided by this endorsement, the following are added to **4. Additional Coverages of Section A. Coverage of the Building And Personal Property Coverage Form**:

1. Expediting Expenses

We will pay the "reasonable extra cost" to:

- a. Make temporary repairs to;
- b. Expedite permanent repairs to; and
- c. Expedite permanent replacement of

your damaged Covered Property resulting from an "Equipment Breakdown".

This will be a part of and not in addition to the Limit of Insurance.

2. Refrigerant Contamination

We will pay the loss from contamination by refrigerant used in refrigerating, cooling or humidity control equipment at the described premises as a result of an "Equipment Breakdown".

The most we will pay for loss or damage under this coverage is \$250,000 for the sum of all covered expenses arising out of an "Equipment Breakdown" occurring during the policy period, unless a higher limit is provided by an endorsement to the property form to which this endorsement is attached. In that case, whichever limit is greater will apply.

3. Spoilage

We will pay for loss of "perishable goods" due to spoilage resulting from lack of power, light, heat, steam or refrigeration caused by an "Equipment Breakdown":

- a. Located on or within 1,000 feet of your described premises; and
- b. Owned by you, the building owner at your described premises, or owned by a public utility.

However, we will not pay for any loss, damage, cost or expense directly caused by, contributed to by, resulting from or arising out of fire, lightning, combustion explosion, windstorm or hail, weight of snow, ice or sleet, falling objects, smoke, aircraft or vehicles, riot or civil commotion, vandalism, sinkhole collapse, volcanic action, leakage from fire extinguishing equipment, water, water damage, earth movement or flood.

The most we will pay for loss or damage under this coverage is \$250,000 for the sum of all covered expenses arising out of an "Equipment Breakdown" occurring during the policy period, unless a higher limit is provided by an endorsement to the property form to which this endorsement is attached. In that case, whichever limit is greater will apply.

4. Service Interruption

Any insurance provided for Business Income, Extra Expense or Spoilage is extended to apply to your loss, damage or expense caused by an "Equipment Breakdown" to equipment that is owned by a utility, landlord or other supplier with whom you have a contract to supply you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, internet access, telecommunications services, wide area networks or data transmission. The equipment must meet the definition of "Equipment Breakdown" except that it is not Covered Property.

However, we will not pay for any loss, damage, cost or expense directly caused by, contributed to by, resulting from or arising out of fire, lightning, combustion explosion, windstorm or hail, weight of snow, ice or sleet, falling objects, smoke, aircraft or vehicles, riot or civil commotion, vandalism, sinkhole collapse, volcanic action, leakage from fire extinguishing equipment, water, water damage, earth movement or flood.

5. 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.

Additional costs mean those in excess of what would have been required to repair or replace Covered Property, had no CFC refrigerant been involved. We also pay for additional loss as described under the Business Income, Extra Expense or Spoilage coverages provided by this endorsement, caused by the presence of a refrigerant containing CFC substances.

We will pay the lesser of:

- a. The cost to repair the damaged property and replace any lost CFC refrigerant;
- b. The cost to repair the damaged property, retrofit the system to accept a non-CFC refrigerant, and charge the system with a non-CFC refrigerant; or
- c. The cost to replace the system with one using a non-CFC refrigerant.

6. Computer Equipment

We will pay for loss or damage to your "computer equipment" caused by an "Equipment Breakdown". The most we will pay for loss or damage is the applicable limit of insurance shown in the Declarations.

C. With respect to the insurance provided by this endorsement, the following conditions are added to Section F. Additional Conditions of the Building And Personal Property Coverage Form:

1. Suspension

Whenever Covered Property is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss to that Covered Property for the perils covered by this endorsement. Coverage can be suspended and possibly reinstated by delivering or mailing a written notice of suspension or coverage reinstatement to:

- a. Your last known address; or
- b. The address where the property is located.

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.

2. Jurisdictional Inspections

If any Covered Property under this endorsement requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf. We do not warrant that conditions are safe or healthful.

3. Environmental, Safety And Efficiency Improvements

If Covered Property requires replacement due to an "Equipment Breakdown", we will pay your additional cost to replace with equipment that is better for the environment, safer, or more energy 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 apply to any Covered Property to which Actual Cash Value applies.

4. Green Environmental And Efficiency Improvements

If Covered Property requires repair or replacement due to an "Equipment Breakdown", we will pay:

- a. The lesser of the reasonable and necessary additional cost incurred by the insured to repair or replace physically damaged Covered Property with equipment of like kind and quality which qualifies as "Green". Like kind and quality includes similar size and capacity.
- b. The additional reasonable and necessary fees incurred by the insured for an accredited professional certified by a "Green Authority" to participate in the repair or replacement of physically damaged Covered Property as "Green".
- c. The additional reasonable and necessary cost incurred by the insured for certification or recertification of the repaired or replaced Covered Property as "Green".
- d. The additional reasonable and necessary cost incurred by the insured for "Green" in the removal, disposal or recycling of damaged Covered Property.
- e. The business interruption (if covered within the Policy to which this endorsement is attached) loss during the additional time required for repair or replacement of Covered Property, consistent with "Green", in the coverages above.

We will not pay more than 125%, to a maximum limit of \$100,000, of what the cost would have been to repair or replace with equipment of like kind and quality inclusive of fees, costs, and any business interruption loss incurred as stated above.

Green Environmental And Efficiency Improvements does not cover any of the following:

- a. Covered Property does not include stock, raw materials, finished goods, "production machinery", merchandise, electronic data processing equipment not used in the functional support of the real property, process water, molds and dies, property in the open, property of others for which the insured is legally liable, or personal property of others.
- b. Any loss adjusted on any valuation basis other than a repair or replacement basis as per the Valuation section of this policy.
- c. Any loss covered under any other section of this policy.
- d. Any cost incurred due to any law or ordinance with which the insured was legally obligated to comply prior to the time of the "Equipment Breakdown".

D. With respect to the insurance provided by this endorsement, the following definitions are added to the Definitions section of the Building And Personal Property Coverage Form, Causes Of Loss - Basic Form, Causes Of Loss - Broad Form and Causes Of Loss - Special Form:

1. "Computer equipment" means Covered Property that is electronic computer or other data processing equipment, including peripherals used in conjunction with such equipment, and electronic media and records.
2. "Equipment Breakdown" means:
 - a. Physical loss or damage both originating within:
 - (1) Boilers, fired or unfired pressure vessels, vacuum vessels, and pressure piping, all normally subject to vacuum or internal pressure other than static pressure of contents, excluding:
 - (a) Waste disposal piping;
 - (b) Any piping forming part of a fire protective system;
 - (c) Furnaces; and

(d) Any water piping other than:

- (i) Boiler feed water piping between the feed pump and the boiler;
- (ii) Boiler condensate return piping; or
- (iii) Water piping forming part of a refrigerating or air conditioning system used for cooling, humidifying or space heating purposes;

(2) All mechanical, electrical, electronic or fiber optic equipment; and

b. Caused by, resulting from, or consisting of:

- (1) Mechanical breakdown;
- (2) Electrical or electronic breakdown; or
- (3) Rupture, bursting, bulging, implosion, or steam explosion.

However, "Equipment Breakdown" will not mean physical loss or damage caused by or resulting from any of the following:

- a. Wear and tear;
- b. Rust or other corrosion, decay, deterioration, hidden or latent defect, mold or any other quality in property that causes it to damage or destroy itself;
- c. Smog;
- d. Settling, cracking, shrinking or expansion;
- e. Nesting or infestation, or discharge or release of waste products or secretions, by birds, rodents or other animals;
- f. Any accident, loss, damage, cost, claim, or expense, whether preventative, remedial, or otherwise, directly or indirectly arising out of or relating to the recognition, interpretation, calculation, comparison, differentiation, sequencing, or processing of data by any computer system including any hardware, programs or software;
- g. Scratching and marring;
- h. Loss, damage, cost or expense directly caused by, contributed to by, resulting from or arising out of fire, lightning, combustion explosion, windstorm or hail, weight of snow, ice or sleet, falling objects, smoke, aircraft or vehicles, riot or civil commotion, vandalism, sinkhole collapse, volcanic action, leakage from fire extinguishing equipment, water, water damage, earth movement or flood.

However, if loss or damage not otherwise excluded results, then we will pay for such resulting loss or damage.

- 3. "Green" means products, materials, methods and processes certified by a "Green Authority" that conserve natural resources, reduce energy or water consumption, avoid toxic or other polluting emissions or otherwise minimize environmental impact.
- 4. "Green Authority" means an authority on "Green" buildings, products, materials, methods or processes certified and accepted by Leadership in Energy and Environmental Design (LEED®), "Green" Building Initiative Green Globes®, Energy Star Rating System or any other recognized "Green" rating system.
- 5. "Perishable Goods" means stock preserved and maintained under controlled conditions and susceptible to loss or damage if the controlled conditions change.
- 6. "Production machinery" means any machine which processes, forms, shapes, or transports raw materials, materials in process, waste materials or finished products.
- 7. "Reasonable extra cost" means the extra cost of temporary repair and of expediting the repair of such damaged equipment of the insured, including overtime and the extra cost of express or other rapid means of transportation.

E. The following cause of loss is **added to Section A. Covered Causes Of Loss of the Causes Of Loss - Basic Form and Causes Of Loss - Broad Form:**

"Equipment Breakdown".

F. Exclusions **B.2.a.**, **B.2.d.** and **B.2.e.** from **Section B. Exclusions of the Causes Of Loss - Basic Form** and exclusions **B.2.a.**, **B.2.b.** and **B.2.c.** from **Section B. Exclusions of the Causes Of Loss - Broad Form** are **deleted**.

G. Exclusions **B.2.a.** and **B.2.e.** are **deleted** from **Section B. Exclusions of the Causes Of Loss - Special Form**.

H. With respect to the insurance provided by this endorsement, exclusion **B.2.d.** from **Section B. Exclusions of the Causes Of Loss - Special Form** is **deleted** and **replaced** with the following:

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

d. (1) Wear and tear;

(2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;

(3) Smog;

(4) Settling, cracking, shrinking or expansion;

(5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals; or

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

(a) Dampness or dryness of atmosphere;

(b) Changes in or extremes of temperature; or

(c) Marring or scratching.

But if an excluded cause of loss that is listed in **2.d.(1)** through **(6)** results in an "Equipment Breakdown", we will pay for the loss or damage caused by that "Equipment Breakdown".

I. Limitations **C.1.a.** and **C.1.b.** are **deleted** from **Section C. Limitations of the Causes Of Loss - Special Form**.

J. The following is **added** to definition **2. "Specified Causes Of Loss"** in the **Definitions** section of the **Causes Of Loss - Special Form**:

"Specified Causes Of Loss" also means "Equipment Breakdown".

All other terms and conditions of this policy remain unchanged.

COMMERCIAL PROPERTY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**COMMERCIAL PROPERTY DELUXE EXTENSION ENDORSEMENT -
SPECIAL FORM**

This endorsement modifies insurance provided under the following:

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

SUMMARY OF COVERAGE

The following is a summary of increased Limits Of Insurance and additional coverage provided by this endorsement. Limits shown below are the highest dollar amount payable and may be subject to sublimits or other limitations. For complete details on specific coverages, refer to the appropriate provisions in this endorsement.

COVERAGE	LIMITS OF INSURANCE / COVERAGE EXTENSION
Accounts Receivable	\$25,000
Computer Equipment	\$25,000
Covered Property Distance From Described Premises	1,000 Feet
Employee Theft	\$ 5,000
Extra Expense	\$ 5,000
Fine Arts	\$10,000
Fire Department Service Charge	\$ 5,000
Fire Protection Equipment	\$ 2,500
Outdoor Property	\$ 5,000
Outdoor Signs	\$10,000
Property In Transit	\$ 7,500
Property Off Premises	\$15,000
Spoilage	\$10,000
Theft Of Money And Securities	\$ 5,000
Valuable Papers And Records (Other Than Electronic Data)	\$25,000
Water Back Up Or Overflow From Sewer, Drain or Sump	\$10,000

A. The following changes are made to the Building And Personal Property Coverage Form and Causes Of Loss - Special Form:

1. The following is added to Paragraph 5. Coverage Extensions of Section A. - Coverage of the Building And Personal Property Coverage Form:

Accounts Receivable

- a. You may extend the insurance that applies to Your Business Personal Property to apply to loss or damage to your accounts receivable for:
- (1) All amounts due from your customers that you are unable to collect;
 - (2) Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
 - (3) Collection expenses in excess of your normal collection expenses that are made necessary by the loss or damage; and
 - (4) Other reasonable expenses that you incur to re-establish your records of accounts receivable; that result from Covered Causes of Loss to your records of accounts receivable.
- b. The amount of receivables will be determined as follows:
- (1) 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:
 - (a) 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
 - (b) 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.
 - (2) The following will be deducted from the total amount of accounts receivable, however that amount is established:
 - (a) The amount of the accounts for which there is no loss or damage;
 - (b) The amount of the accounts that you are able to re-establish or collect;
 - (c) An amount to allow for probable bad debts that you are normally unable to collect; and
 - (d) All unearned interest and service charges.
- c. The most we will pay under this Extension is \$25,000 at each described premises, unless a higher limit is shown in the Declarations.

2. The following is added to Paragraph 5. Coverage Extensions of Section A. - Coverage of the Building And Personal Property Coverage Form:

Computer Equipment Coverage

- a. You may extend the insurance that applies to Your Business Personal Property to apply to loss or damage to:
- (1) Computer equipment and related component parts that are:
 - (a) Your property; or
 - (b) The property of others that is in your care, custody or control;
 - (2) Your instructional material and prepackaged software programs purchased for use with your computer system; and
 - (3) Your blank electronic or magnetic media.
- b. The following Exclusions from Paragraph 2. of Section B. - Exclusions of the Causes Of Loss - Special Form do not apply to this Coverage Extension:
- (1) Exclusions B.2.a. (Artificially generated electric current).
 - (2) Exclusions B.2.d.(6) (Mechanical breakdown).

- c. The most we will pay for loss or damage under this Extension is \$25,000 at each described premises, unless a higher limit is shown in the Declarations.
3. In Paragraph 1. **Covered Property of Section A. - Coverage of the Building And Personal Property Coverage Form**, all reference to distance from the described building, structure or premises is increased to 1,000 feet.
4. The following is **added** to Paragraph 5. **Coverage Extensions of Section A. - Coverage of the Building And Personal Property Coverage Form**:
Employee Theft
 - a. You may extend the insurance provided by this Coverage Part to apply to the loss of or damage to "money", "securities", and "other property" resulting directly from "theft" committed by an "employee", whether identified or not, acting alone or in collusion with other persons.
 - b. For the purposes of this Extension, "theft" shall also include "forgery".
 - c. The most we will pay for loss or damage under this Extension is \$5,000.
5. The following is **added** to Paragraph 4. **Additional Coverages of Section A. - Coverage of the Building And Personal Property Coverage Form**:
Extra Expense
 - a. You may extend this insurance to apply to the actual and necessary "extra expense" you sustain due to direct physical loss of or damage to Covered Property at the premises that are described in the Declarations. The loss or damage must be caused by or resulting from a Covered Cause of Loss.
 - b. The most we will pay for loss under this Extension is \$ 5,000 at each described premises.
6. The following is **added** to Paragraph 5. **Coverage Extensions of Section A. - Coverage of the Building And Personal Property Coverage Form**:
Fine Arts
 - a. You may extend the insurance provided by this Coverage Part to apply to "fine arts".
 - b. The most we will pay for loss or damages under this Extension is \$10,000.
7. In Paragraph c. **Fire Department Service Charge of 4. Additional Coverages of Section A. - Coverage of the Building And Personal Property Coverage Form**, the amount up to which we will pay is increased to \$5,000.
8. The following is **added** to Paragraph 4. **Additional Coverages of Section A. - Coverage of the Building And Personal Property Coverage Form**:
g. Fire Protection Equipment

When you use your fire protection equipment, or your fire protection equipment automatically discharges to protect Covered Property from a Covered Cause of Loss, we will pay up to \$2,500 of your costs to recharge your fire protection equipment.

Neither the Deductible nor the Coinsurance Additional Condition apply to this coverage.
9. In Paragraph e. **Outdoor Property of 5. Coverage Extensions of Section A. - Coverage of the Building And Personal Property Coverage Form**, the most we will pay is increased to \$5,000, but not more than \$500 for any one tree, shrub or plant for the coverage provided.
10. The second paragraph of **Section C. - Limits Of Insurance of the Building And Personal Property Coverage Form** is replaced by the following:
Outdoor Signs

The most we will pay for loss or damage to outdoor signs, whether or not the sign is attached to a building, is \$10,000 per sign in any one occurrence.
11. The Limit Of Insurance in Paragraph 1.c. **Property In Transit of Section F. - Additional Coverage Extensions of the Causes Of Loss - Special Form** is increased to \$7,500.

12. Paragraph d. Property Off-Premises of 5. Coverage Extensions of Section A. - Coverage of the Building And Personal Property Coverage Form, is replaced by the following:

Property Off Premises

- a. You may extend the insurance provided by this Coverage Form to apply to your Covered Property while it is away from the described premises, if it is:
 - (1) Temporarily at a location you do not own, lease or operate;
 - (2) In storage at a location you lease, provided the lease was executed after the beginning of the current policy term; or
 - (3) At any fair, trade show or exhibition.
- b. This Extension does not apply to property in or on a vehicle.
- c. The most we will pay for loss or damage under this Extension is \$15,000.

13. The following is added to Paragraph 5. Coverage Extensions of Section A. - Coverage of the Building And Personal Property Coverage Form:

Spoilage Coverage

- a. You may extend the insurance provided by Your Business Personal Property to apply to direct physical loss or damage by the Covered Causes of Loss to "perishable stock" at the described premises owned by you or by others that is in your care, custody or control; but only with respect to the coverage provided by this Extension.
- b. With respect to the coverage provided by this Extension, property located on the buildings or in the open or in vehicles is considered to be Property Not Covered.
- c. Paragraph 3. Covered Causes Of Loss, of Section A - Coverage of the Building And Personal Property Coverage Form is replaced by the following:

Covered Causes of Loss means the following:

(1) Breakdown or Contamination, meaning:

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

- (b) Contamination by the refrigerant.

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

- d. Paragraph 5. Coverage Extensions of Section A. - Coverage of the Building And Personal Property Coverage Form does not apply.
- e. Section B. - Exclusions of the Causes Of Loss - Special Form is amended as follows:

B. Exclusions

- 1. Only the following Exclusions contained in Paragraph 1. Of Section B. - Exclusions of the Causes of Loss - Special Form applicable to this Coverage Part apply to Spoilage Coverage:

- a. Earth Movement;
- b. Governmental Action;
- c. Nuclear Hazard;
- d. War And Military Action; and
- e. Water.

- 2. The following Exclusions are added:

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

- a. The disconnection of any refrigerating, cooling, or humidity control system from the source of power.

- b. The deactivation of electrical power caused by manipulation of any switch or other device used to control the flow of electrical power or current.
 - c. The inability of an Electrical Utility Company or other power source to provide sufficient power due to:
 - (1) Lack of fuel; or
 - (2) Governmental order.
 - d. The inability of a power source at the described premises to provide sufficient power due to lack of generating capacity to meet demand.
 - e. Breaking of any glass that is a permanent part of any refrigerating, cooling or humidity control unit.
- f. The following is **added to Section F. - Additional Conditions of the Building And Personal Property Coverage Form:**
- Additional Condition**
- The following condition applies in addition to the **Common Policy Conditions** and the **Commercial Property Conditions:**
- Refrigeration Maintenance Agreement**
- You must maintain a refrigeration maintenance or service agreement. If you voluntarily terminate this agreement and do not notify us, the insurance provided by this Coverage Extension will be automatically suspended at the involved location.
- g. **Section G. - Optional Coverages of the Building And Personal Property Coverage Form does not apply.**
- h. The most we will pay for loss or damage under this extension is \$10,000 at each described premises, unless a higher limit is shown in the Declarations. Our payment for loss or damage to property of others will only be for the account of the owner of the property.
14. The following is **added to Paragraph 5. Coverage Extensions of Section A. - Coverage of the Building And Personal Property Coverage Form:**
- Theft Of Money And Securities**
- You may extend the insurance provided by this Coverage Part to apply to the:
- a. Loss of "money" and "securities" inside the "premises" or "banking premises" resulting directly from:
 - (1) "Theft" committed by a person present inside such "premises" or "banking premises"; or
 - (2) Disappearance or destruction;
 - b. Loss from damage to the "premises" or its exterior resulting directly from an actual or attempted "theft" of "money" and "securities", if you are the owner of the "premises" or are liable for damage to it;
 - c. Loss of or damage to a locked safe, vault, cash register, cash box, or cash drawer located inside the "premises" resulting directly from an actual or attempted "theft" of, or unlawful entry into, those containers; or
 - d. Loss of "money" and "securities" outside the "premises" in the care and custody of a "messenger" or an armored motor vehicle company resulting directly from "theft", disappearance, or destruction.
 - e. The most we will pay for loss or damages under this Extension is \$5,000.
15. Paragraph c. **Valuable Papers And Records (Other Than Electronic Data)** of 5. **Coverage Extensions of Section A. - Coverage of the Building and Personal Property Coverage Form** is **replaced** by the following:
- Valuable Papers And Records (Other Than Electronic Data)**
- a. You may extend the insurance that applies to Your Business Personal Property to apply to the cost to replace or restore the lost information on "valuable papers and records" for which duplicates do not exist. However, this Extension does not apply to "valuable papers and records" that exist as electronic data. Electronic data has the meaning described under Property Not Covered - Electronic Data.

- b. Coverage under this Extension is limited to the "specified causes of loss" as defined in **Section G - Definitions of the Causes Of Loss - Special Form** and Collapse as set forth in the **Causes of Loss - Special Form**.
- c. The following Exclusions in **Section B. - Exclusions in the Causes of Loss - Special Form** do not apply to this Extension:
 - (1) Exclusions **B.1.e.** (Utility services);
 - (2) Exclusions **B.2.d.(6)** (Mechanical breakdown); and
 - (3) Exclusions **B.2.d.(7)** (Dampness or dryness of atmosphere, changes in or extremes of temperature and marring or scratching).
- d. Coverage under this Extension includes Collapse as set forth in **Section D. - Additional Coverage - Collapse of the Causes of Loss - Special Form**.
- e. Under this Extension, the most we will pay to replace or restore the lost information is \$25,000 at each described premises, unless a higher limit is shown in the Declarations. Such amount is additional insurance. We will also pay for the cost of blank material for reproducing the records (whether or not duplicates exist), and (when there is a duplicate) for the cost of labor to transcribe or copy the records. The costs of blank material and labor are subject to the applicable Limit of Insurance on Your Business Personal Property and therefore coverage of such costs is not additional insurance.

16. Exclusion g. Water of Paragraph 1. of Section B - Exclusions of the Causes of Loss - Special Form is replaced by the following:

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.

g. Water

- (1) Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
- (2) Mudslide or mudflow;
- (3) Water 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.
- (4) Waterborne material carried or otherwise moved by any of the water referred to in Paragraph (1) or (3), or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (4), is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason to contain the water.

But if any of the above, in Paragraphs (1) through (4), results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage (if sprinkler leakage is a Covered Cause of Loss).

17. The following additional coverage extension is added to Section F. - Additional Coverage Extensions of the Causes of Loss - Special Form:

Water Back Up or Overflow From Sewer, Drain or Sump

- a. You may extend the insurance provided by this Coverage Part to apply to loss or damage to property caused by or resulting from water that backs up or overflows from a sewer, drain or sump.

4. "Extra Expense" means necessary expenses you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property. Coverage pertains to expenses (other than the expense to repair or replace property) that are incurred to:
 - a. Avoid or minimize the "suspension" of business and to continue "operations" at the described premises or at replacement premises or temporary locations, including relocation expenses and costs to equip and operate the replacement location or temporary location;
 - b. Minimize the "suspension" of business if you cannot continue "operations"; or
 - c. Repair or replace property, but only to the extent it reduces the amount of loss that otherwise would have been payable under this Extension.
5. "Fine arts" includes, but is not limited to, antiques, paintings, etchings, drawings, tapestries, sculptures and fragile property such as porcelains, china and marble.
6. "Forgery" means the signing of the name of another person or organization with intent to deceive, it does not mean a signature which consists in whole or in part of one's own name signed with or without authority, in any capacity, for any purpose.
7. "Manager" means a natural person serving in a directorial capacity for a limited liability company.
8. "Member" means an owner of a limited liability company represented by its membership interest who, if a natural person, may also serve as a "manager".
9. "Messenger" means you, or your relative, or any of your partners or "members", or any "employee" while having care and custody of property outside the "premises".
10. "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.
11. "Other property" means any tangible property other than "money" and "securities" that has intrinsic value. "Other property" does not include computer programs, electronic data or any property specifically excluded under this insurance.
12. "Operations" means your business activities occurring at the described premises.
13. "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 earlier of:
 - (1) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or
 - (2) The date when business is resumed at a new permanent location.

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

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

The expiration date of this policy will not cut short the Period of Restoration.
14. "Perishable Stock" means personal property:
 - a. Maintained under controlled conditions for its preservation; and
 - b. Susceptible to loss or damage if the controlled conditions change.
15. "Premises", as it applies to coverage for Theft of Money and Securities, means the interior of that portion of any building you occupy in conducting your business.

- 16.** "Securities" means negotiable and nonnegotiable instruments or contracts representing either "money" or 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".
- 17.** "Suspension" means the slowdown or cessation of your business activities.
- 18.** "Theft" means the unlawful taking of property to the deprivation of the insured.
- 19.** "Valuable papers and records" means inscribed, printed, or written documents, manuscripts, or records, including abstracts, books, deeds, drawings, films, maps, or mortgages.
- But "valuable papers and records" does not mean "money" or "securities", converted data, programs or instructions used in your data processing operations, including the materials on which the data is recorded.

All other terms and conditions remain unchanged.

COMMERCIAL PROPERTY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TOTAL LOSS ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART

- A.** In the event of a total loss or a "constructive total loss" of the Covered Property, the premium for that Covered Property will be fully earned and no refund will be made.
- B.** For the purpose of this endorsement the following is **added** to the **Definitions** section:
"Constructive total loss" means Covered Property that is damaged and is treated as a total loss because the cost of repairing the damaged Covered Property exceeds the value of the Covered Property.

All other terms and conditions of the policy remain unchanged.

SERVICE OF SUIT - PENNSYLVANIA

It is agreed that in the event of the failure of the Insurer(s) or Underwriter(s) herein to pay any amount claimed to be due hereunder, the Insurer(s) or Underwriter(s) herein, at the request of the Insured (or reinsured), will submit to the jurisdiction of any court of competent jurisdiction within the United States of America and will comply with all requirements necessary to give such court jurisdiction, and all matters arising hereunder shall be determined in accordance with the law and practice of such court. It is further agreed that in any such action instituted against any one of them upon this contract, Insurer(s) or Underwriter(s) will abide by the final decision of such court or of any appellate court in the event of an appeal. Nothing herein shall foreclose, limit, or constitute a waiver of, any of the Insurer's or Underwriter's rights to select a forum or court, including any of the federal courts of the United States.

Service of process shall be made pursuant to the procedures provided by 42 Pa.C.S. Ch. 53 Subch. B (relating to interstate and international procedure). When making service of process by mail, such process shall be mailed to Janet Shemanske, or her nominee, at Nautilus Insurance Company, 7233 East Butherus Drive, Scottsdale, Arizona 85260. The above-named is authorized and directed to accept service of process on behalf of the Insurer(s) or Underwriter(s) in any such action or upon the request of the insured (or reinsured) to give a written undertaking to the insured (or reinsured) that it or they will enter a general appearance for the Insurer(s) or Underwriter(s) in the event such an action shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States of America, which makes provisions therefor, the Insurer(s) or Underwriter(s) hereby designates the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute or his successor or successors in office, as the true and lawful attorney upon whom any lawful process may be served in any action, suit or proceeding instituted by or on behalf of the insured (or reinsured) or any beneficiary hereunder arising out of his contract of insurance (or reinsurance), and hereby designates the above-named as the person on whom such process or a true copy thereof shall be served.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PENNSYLVANIA CHANGES - CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

BOILER AND MACHINERY COVERAGE PART
CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART
COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART
FARM COVERAGE PART
FARM UMBRELLA LIABILITY POLICY
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

- A. The **Cancellation** Common Policy Condition is replaced by the following:

CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by writing or giving notice of cancellation.

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

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

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

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

- a. You have made a material misrepresentation which affects the insurability of the risk. Notice of cancellation will be mailed or delivered at least 15 days before the effective date of cancellation.

- b. You have failed to pay a premium when due, whether the premium is payable directly to us or our agents or indirectly under a premium finance plan or extension of credit. Notice of cancellation will be mailed at least 15 days before the effective date of cancellation.
- c. A condition, factor or loss experience material to insurability has changed substantially or a substantial condition, factor or loss experience material to insurability has become known during the policy period. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.
- d. Loss of reinsurance or a substantial decrease in reinsurance has occurred, which loss or decrease, at the time of cancellation, shall be certified to the Insurance Commissioner as directly affecting in-force policies. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.
- e. Material failure to comply with policy terms, conditions or contractual duties. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.

- f. Other reasons that the Insurance Commissioner may approve. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.

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

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

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

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

- 1. **Nonrenewal**

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

- 2. **Increase Of Premium**

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

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

PENNSYLVANIA NOTICE

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

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

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

The Act does not apply:

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



T | 800.842.8972
F | 480.951.9730

May 7, 2020

505 Rochester Inc.
DBA: Rochester Inn & Hardwood Grill; Dumont Brothers, Inc.
505 Rochester Road
Pittsburgh, PA, 15237
Attn: Todd Dumont

VIA EMAIL TO: toddjdumont@yahoo.com

RE: Company: Nautilus Insurance Company
 Insured: 505 Rochester Inc. DBA: Rochester Inn & Hardwood Grill; Dumont
 Brothers, Inc.
 Claim Number: N000010111342
 Policy Number: NN1000793
 Deductible: \$1,000.00
 Loss Location: 505 Rochester Road, Pittsburgh, PA, 15237
 Date of Loss: Reported as 03/15/2020
 Type of Loss: Business Interruption due to COVID-19 protocol

Dear Mr. Dumont:

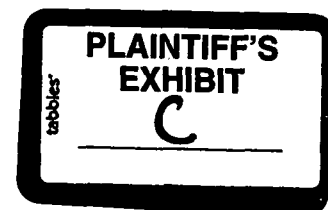
This is to acknowledge receipt of the insured's claim that was reported to Nautilus Insurance Company as a loss of business income related to novel coronavirus or COVID-19. On May 1, 2020, Pamela Morgan of our office had a telephone conversation with you, during which you agreed that you and the insureds could receive communications from Nautilus regarding this claim at the above-referenced email address. Accordingly, this letter is being sent to the subject email address, only.

During that phone conversation, you reported that the Governor of Pennsylvania issued an Executive Order associated with COVID-19 mandating the temporary closure of restaurant dining rooms. This mandate was in effect as of March 15, 2020. You further advised that you are open for take-out only since the governor's mandate. You are making a claim for reduction of the insureds' business income because of the Governor's Order. During that call, you confirmed there is no physical damage to the insured property itself, including insured building, business personal property, and no equipment breakdown.

I have had the opportunity to review the policy's coverage and am writing to inform you that your policy does not provide coverage for this claim.

Nautilus Insurance Company issued a commercial package policy, NN1000793, to 505 Rochester Inc. DBA: Rochester Inn & Hardwood Grill; Dumont Brothers, Inc., which includes a commercial property part. The policy includes numerous forms.

I refer you to policy form CP 00 30 (10 12) entitled, **Business Income (and Extra Expense) Coverage Form**, which reads in part as follows:



BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM

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

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

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

A. Coverage

1. Business Income

Business Income means the:

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

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

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

- (1) Business Income Including "Rental Value".
- (2) Business Income Other Than "Rental Value".
- (3) "Rental Value".

If option (1) above is selected, the term Business Income will include "Rental Value". If option (3) above is selected, the term Business Income will mean "Rental Value" only.

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

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

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

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

2. Extra Expense

- a. Extra Expense Coverage is provided at the premises described in the Declarations only if the Declarations show that Business Income Coverage applies at that premises.

- b. Extra Expense means necessary expenses you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property caused by or resulting from a Covered Cause of Loss.

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

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

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

3. Covered Causes Of Loss, Exclusions And Limitations

See applicable Causes Of Loss form as shown in the Declarations.

* * *

5. Additional Coverages

a. Civil Authority

In this Additional Coverage, Civil Authority, the described premises are premises to which this Coverage Form applies, as shown in the Declarations.

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

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

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

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

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

* * *

F. Definitions

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

a. Begins:

- (1) 72 hours after the time of direct physical loss or damage for Business Income Coverage; or
 - (2) Immediately after the time of direct physical loss or damage for Extra Expense Coverage;
- caused by or resulting from any Covered Cause of Loss at the described premises; and

N000010111342

May 7, 2020

Page 4 of 5

* * *

Lastly, I refer to you endorsement form F233 (11/14) entitled **Exclusion of Loss due to Virus or Bacteria**, that reads as follows:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART
STANDARD PROPERTY POLICY

- A. The exclusion set forth in Paragraph **B.** applies to all coverage under all forms and endorsements that comprise this Coverage Part or Policy, including but not limited to forms or endorsements that cover property damage to buildings or personal property and forms or endorsements that cover business income, extra expense or action of civil authority.
- B. We will not pay for loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.

However, this exclusion does not apply to loss or damage caused by or resulting from "fungus", wet rot or dry rot. Such loss or damage is addressed in a separate exclusion in this Coverage Part or Policy.
- C. With respect to any loss or damage subject to the exclusion in Paragraph **B.**, such exclusion supersedes any exclusion relating to "pollutants".
- D. The terms of the exclusion in Paragraph **B.**, or the inapplicability of this exclusion to a particular loss, do not serve to create coverage for any loss that would otherwise be excluded under this Coverage Part or Policy. All other terms and conditions remain unchanged.

As you can see, for Business Income coverage to be triggered there must first be direct physical loss of or damage to the property described in the Policy Declarations that is caused by a covered cause of loss that causes suspension of the insured business. Said trigger of coverage is subject to the other provisions, conditions and exclusions in the policy. You advised that the Governor's Order associated with COVID-19 mandated the temporary closure of restaurant dining rooms, reducing your business to take out only, and that forms the basis of the business income claim. You have confirmed that there is no direct physical damage to the property described in the Policy Declarations. As there is no direct physical damage to the insured property, there is no trigger of coverage under the Nautilus policy for the business income claim.

Notwithstanding the foregoing, even if Business Income coverage was triggered, which we dispute, coverage would be excluded by the policy. As noted above, the policy expressly excludes from coverage any loss or damage caused by or resulting from any virus that induces or is capable of inducing physical distress or disease. Novel coronavirus is a virus that is capable of inducing physical distress and disease, namely COVID-19 disease, which triggers the exclusion. For this and the foregoing reasons, Nautilus Insurance Company respectfully declines coverage for this claim. If you have any questions or wish to submit further information, which may have a bearing on our decision, please feel free to submit that to me.

Your privacy throughout the claim process is very important to us. To learn more about our privacy policies including how we collect, use and share information, please visit www.nautilusinsgroup.com and click the "Privacy Policies" tab at the bottom of the page. Our Notice of Personal Information Collected per

N000010111342

May 7, 2020

Page 5 of 5

California's CCPA can be viewed at <http://www.nautilusinsgroup.com/claimscalifornia.pdf>. If you wish to receive a paper copy of our privacy policies and notice, please contact 480-509-6627.

Nautilus Insurance Company, by this letter and by its initial notice and investigation, does not waive nor invalidate any of the other terms, conditions or exclusions of this policy. We specifically reserve the right to exercise any of the other terms, conditions or exclusions of this policy that now exist or may later become apparent. Nautilus Insurance Company also specifically reserves the right to bring an action to declare the obligations and responsibilities of the parties hereto under the contract of insurance in question, at any time after the date of this letter.

If you have any questions regarding this matter, please call me at 800-842-8972 X4805315.

Sincerely,



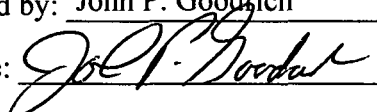
For Cara Daugherty – Catastrophe Coordinator
Nautilus Insurance Group on behalf of Nautilus Insurance Company
Email: cdaugher@nautilus-ins.com
Direct Fax: 480-281-0921

cc: Conway E&S, Inc. – 03715-00 (via email)

cc: Davie & Davies Insurance, Inc. (via email)

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: John P. Goodrich
Signature: 
Name: John P. Goodrich
Attorney No. (if applicable): 49648

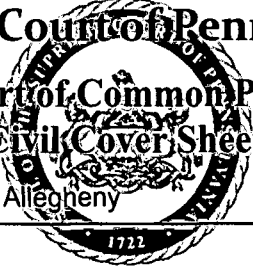
Supreme Court of Pennsylvania

Court of Common Pleas

Civil Cover Sheet

Allegheny

County



For Prothonotary Use Only:

Docket No:

GD 20 6542

TIME STAMP

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A	Commencement of Action: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Petition <input type="checkbox"/> Transfer from Another Jurisdiction <input type="checkbox"/> Declaration of Taking	
	Lead Plaintiff's Name: DuMont Brothers, Inc., 505 Rochester Inc.	Lead Defendant's Name: Nautilus Insurance Company
	Are money damages requested? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Dollar Amount Requested: <input type="checkbox"/> within arbitration limits (check one) <input checked="" type="checkbox"/> outside arbitration limits
	Is this a <i>Class Action Suit</i> ? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is this an <i>MDJ Appeal</i> ? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Name of Plaintiff/Appellant's Attorney: <u>John P. Goodrich, Esq.</u> <input type="checkbox"/> Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)	

SECTION B	Nature of the Case: Place an "X" to the left of the <u>ONE</u> case category that most accurately describes your PRIMARY CASE . If you are making more than one type of claim, check the one that you consider most important.		
	TORT (do not include Mass Tort) <input type="checkbox"/> Intentional <input type="checkbox"/> Malicious Prosecution <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Nuisance <input type="checkbox"/> Premises Liability <input type="checkbox"/> Product Liability (does not include mass tort) <input type="checkbox"/> Slander/Libel/ Defamation <input type="checkbox"/> Other: _____	CONTRACT (do not include Judgments) <input type="checkbox"/> Buyer Plaintiff <input type="checkbox"/> Debt Collection: Credit Card <input type="checkbox"/> Debt Collection: Other _____ <input type="checkbox"/> Employment Dispute: Discrimination <input type="checkbox"/> Employment Dispute: Other _____ <input type="checkbox"/> Other: _____	CIVIL APPEALS Administrative Agencies <input type="checkbox"/> Board of Assessment <input type="checkbox"/> Board of Elections <input type="checkbox"/> Dept. of Transportation <input type="checkbox"/> Statutory Appeal: Other _____ <input type="checkbox"/> Zoning Board <input type="checkbox"/> Other: _____
	MASS TORT <input type="checkbox"/> Asbestos <input type="checkbox"/> Tobacco <input type="checkbox"/> Toxic Tort - DES <input type="checkbox"/> Toxic Tort - Implant <input type="checkbox"/> Toxic Waste <input type="checkbox"/> Other: _____	REAL PROPERTY <input type="checkbox"/> Ejectment <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Ground Rent <input type="checkbox"/> Landlord/Tenant Dispute <input type="checkbox"/> Mortgage Foreclosure: Residential <input type="checkbox"/> Mortgage Foreclosure: Commercial <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Other: _____	MISCELLANEOUS <input type="checkbox"/> Common Law/Statutory Arbitration <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Mandamus <input type="checkbox"/> Non-Domestic Relations Restraining Order <input type="checkbox"/> Quo Warranto <input type="checkbox"/> Replevin <input checked="" type="checkbox"/> Other: <u>Class Action</u>
	PROFESSIONAL LIABILITY <input type="checkbox"/> Dental <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional: _____		

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

DUMONT BROTHERS, INC.,
505 ROCHESTER INC. BOTH
D/B/A ROCHESTER INN &
HARDWOOD GRILL INDIVIDUALLY
AND ON BEHALF OF A CLASS OF
SIMILARLY SITUATED PERSONS
505 Rochester Road
Pittsburgh, PA 15237,

Plaintiff,

vs.

NAUTILUS INSURANCE COMPANY
7233 East Butherus Drive
Scottsdale, AZ 85260,

Defendant.

CIVIL DIVISION

No.: GD 20-006542

**PROOF OF SERVICE OF CLASS
ACTION COMPLAINT ON
DEFENDANT**

Counsel of Record for Plaintiff:

John P. Goodrich, Esquire
Pa. I.D. #49648
429 Fourth Avenue, Suite 900
Pittsburgh, PA 15219

James C. Haggerty, Esquire
Pa. I.D. #30003
1835 Market Street, Suite 2700
Philadelphia, PA 19103

Scott B. Cooper, Esquire
Pa. I.D. #70242
209 State Street
Harrisburg, PA 17101

Jonathan Shub, Esquire
Pa. I.D. #53965
1600 Market Street, Suite 2500
Philadelphia, PA 19103

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

DUMONT BROTHERS, INC.,
505 ROCHESTER INC. BOTH
D/B/A ROCHESTER INN &
HARDWOOD GRILL INDIVIDUALLY AND
ON BEHALF OF A CLASS OF
SIMILARLY SITUATED PERSONS
505 Rochester Road
Pittsburgh, PA 15237,

No.: GD 20-006542

Plaintiff,

vs.

NAUTILUS INSURANCE COMPANY
7233 East Butherus Drive
Scottsdale, AZ 85260,

Defendant.

PROOF OF SERVICE OF CLASS ACTION COMPLAINT ON DEFENDANT

Service of the "Class Action Complaint" was made upon Defendant, Nautilus Insurance Company, via certified mail, return receipt requested. A copy of the certified mail, return receipt card is attached hereto.

Respectfully submitted,

GOODRICH & ASSOCIATES, P.C.

BY:


John P. Goodrich, Esquire
Attorney for Plaintiff

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Nautilus Insurance Company
 7233 East Butternut Drive
 Scottsdale, AZ 85260



9590 9402 1189 5246 4533 90

2. Article Number (Transfer from service label)

7019 1640 0000 15000 6443

A. Signature

[Handwritten Signature]

- Agent
- Addressee

B. Received by (Printed Name)

[Handwritten Name]

C. Date of Delivery

[Handwritten Date]

- D. Is delivery address different from item 1? Yes
- If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **Proof of Service of Class Action Complaint on Defendant** has been served upon all parties either individually or through counsel by:

- Hand-Delivery
- First-Class Mail, Postage Pre-Paid
- Certified Mail – Return Receipt Requested
- Express Mail/Federal Express
- Facsimile
- Electronic Mail/ECF

at the following addresses:

Nautilus Insurance Company
7233 East Butherus Drive
Scottsdale, AZ 85260

Dated: 6/17, 2020



John P. Goodrich, Esq.
Attorney for Plaintiff

Allegheny County Department Of Court Records**Civil/Family Division Docket Report**

Run Date and Time: 7/2/2020 - 10:22:15

GD-20-006542

Dumont Brothers Inc. etal. vs Nautilus Insurance

Filing Date:

6/5/2020

Related Cases:**Consolidated Cases:****Judge:**

No Judge

Amount In Dispute:

\$ 0

Case Type:

Class Action Complaint

Court Type:

General Docket

Current Status:

Proof of Service

Jury Requested:

N

--Parties--

LName	FName	MI	Type	Address	Initial Service Completion	Attorney
Dumont Brothers Inc.			Plaintiff		--	John P Goodrich
505 Rochester Inc.			Plaintiff	505 Rochester Road Pittsburgh PA 15237	--	John P Goodrich
Nautilus Insurance Company			Defendant	7233 East Butherus Drive Scottsdale PA 85260	--	--

--Attorney--

LName	FName	MI	Type	Address	Phone
Goodrich	John	P	Plaintiff's Attorney	Goodrich Goodrich & Lazzara 429 4th Avenue Suite 900 Pittsburgh PA 15219-1503	4122811455

--Non Litigants--

LName	FName	MI	Type	Address	Phone
No Litigants Found					

--Docket Entries--

Filing Date	Docket Type	Docket Text	Filing Party
-------------	-------------	-------------	--------------

Filing Date	Docket Type	Docket Text	Filing Party
6/17/2020	Proof of Service	of Complaint upon Deft. by certified mail, as specified	Dumont Brothers Inc.
6/5/2020	Complaint		Dumont Brothers Inc.

--Alias Information--

Rochester Inn & Grill dba		
Rochester Inn & Grill dba		

--Judgments Against--

Name	Amount	Satisfied(Y,N)
No Judgments Found		

--Events Schedule--

Event Scheduled	Event Date & Time	Room Number	Judge/Hearing Officer
No Information Found			



Corporations ▾ Search Business Entities (corpsearch.aspx) Search UCC Transactions (uccsearch.aspx) Forms ▾
 Contact Corporations (http://www.dos.pa.gov/BusinessCharities/Pages/default.aspx) Login (https://hub.business.pa.gov/login)

Search entity / Select entity / **Order documents**

Order Business Documents ?

Date: 07/02/2020

Business Name History

Name	Name Type
DUMONT BROTHERS, INC.	Current Name

Business Entity Details

Name	DUMONT BROTHERS, INC.
Entity Number	2673566
Entity Type	PA Close Corporation
Status	Active
Citizenship	Domestic
Entity Creation Date	01/11/1996
Effective Date	01/11/1996
State Of Inc	PA
Address	499 HURON AVE PITTSBURGH PA 15237-0 Allegheny

Officers

Name	ROBERT R LEIGHT
Title	SECRETARY
Address	2398 ANTRIM CT PITTSBURGH PA 15237-6610
Name	TODD DUMONT
Title	PRESIDENT
Address	2398 ANTRIM CT PITTSBURGH PA 15237-6610
Name	TODD DUMONT
Title	TREASURER
Address	2398 ANTRIM CT PITTSBURGH PA 15237-6610

Filed Documents

The information presented below is for your reference. To place an order you will need to log in. If you do not have a PENN File account, you may register for an account by clicking here (/Account/Register_account).

Show entries

Filter Records

Select	Date	Document	Pages	Plain Copy Quantity#	Price	Certified Copy Quantity#	Certified Copy Price	Microfilm #	Microfilm Start	Microfilm End
<input type="checkbox"/>		Search Request			\$15.00					
<input type="checkbox"/>	01/11/1996	ARTICLES OF INCORPORATION 1		<input type="text" value="1"/>	\$0.00	<input type="text" value="0"/>	\$40.00	9603	1038	1039

Showing 1 to 2 of 2 entries

Previous 1 Next

<input type="checkbox"/>	All Dates	All Certified Copies	Quantity # <input style="width: 40px;" type="text" value="1"/>	\$40.00	Search Fee \$15.00		
<input type="checkbox"/>	All Dates	All Plain Copies	Quantity # <input style="width: 40px;" type="text" value="1"/>	\$0.00	Search Fee \$15.00		

Note: Some of the images are currently unavailable through the website. You may submit an order for copies by selecting a document and then clicking on the 'Proceed to Cart' button. An initial \$15 search fee is due and payable at the time of the order. Additional fees of \$3.00 per page will be invoiced through the email identified with the user login. When all fees due have been paid, you will receive an email indicating the order is available on the users Home page under the Downloads section.

By selecting 'Proceed to Cart' you are agreeing to pay all fees for this order.

Certified Documents

Select	Date	Document	Pages	Quantity#	Price	Line Total
<input type="checkbox"/>	07/02/2020	Subsistence Certificate	1	<input style="width: 40px;" type="text" value="1"/>	\$40.00	
<input type="checkbox"/>	07/02/2020	Index and Docket Report	1	<input style="width: 40px;" type="text" value="1"/>	\$15.00	
<input type="checkbox"/>	07/02/2020	Index and Docket Certified Report	1	<input style="width: 40px;" type="text" value="1"/>	\$55.00	

Order Total :

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Date: 07/02/2020

Business Name History

Name	Name Type
505 ROCHESTER, INC.	Current Name

Business Entity Details

Name	505 ROCHESTER, INC.
Entity Number	2711090
Entity Type	Business Corporation
Status	Active
Citizenship	Domestic
Entity Creation Date	08/21/1996
Effective Date	08/21/1996
State Of Inc	PA
Address	505 ROCHESTER RD PITTSBURGH PA 15237-1747 Allegheny

Officers

Name	TODD DUMONT
Title	PRESIDENT
Address	505 ROCHESTER RD PITTSBURGH PA 15237-1747
Name	TODD DUMONT
Title	TREASURER
Address	505 ROCHESTER RD PITTSBURGH PA 15237-1747

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<input type="checkbox"/>	08/21/1996	ARTICLES OF INCORPORATION 1		<input type="text" value="1"/>	\$0.00	<input type="text" value="0"/>	\$40.00	9657	1019	1020

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<input type="checkbox"/>	07/02/2020	Index and Docket Report	1	<input type="text" value="1"/>	\$15.00	
<input type="checkbox"/>	07/02/2020	Index and Docket Certified Report	1	<input type="text" value="1"/>	\$55.00	

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PROPERTY LOSS NOTICE

OP ID BD

DATE (MM/DD/YYYY)
09/20/2012

AGENCY PHONE (A/C, No, Ext): 412-741-1820		MISCELLANEOUS INFO (Site & location code)		DATE OF LOSS AND TIME 3/15/20 present		AM <input type="checkbox"/>	PREVIOUSLY REPORTED YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
Davies & Davies Insurance, Inc 1519 Mt Nebo Road Sewickley PA 15143 Jeff Davies FAX (A/C, No): 412-741-1821 E-MAIL ADDRESS: CODE: SUB CODE:		POLICY TYPE COMPANY AND POLICY NUMBER CO: Erie Insurance		NAIC CODE		POLICY DATES EFF: EXP: EFF: EXP: EFF: EXP:		
AGENCY CUSTOMER ID: DAVIJE1		POLICY TYPE COMPANY AND POLICY NUMBER PROP/HOME CO: Erie Insurance POL:		NAIC CODE		POLICY DATES EFF: EXP: EFF: EXP:		
FLOOD CO: POL:		WIND CO: POL:		NAIC CODE		POLICY DATES EFF: EXP:		

INSURED NAME AND ADDRESS OF INSURED DATE OF BIRTH SOC SEC # OR FEIN: - -		CONTACT CONTACT INSURED NAME AND ADDRESS OF INSURED	
RESIDENCE PHONE (A/C, No) BUSINESS PHONE (A/C, No, Ext)		E-MAIL ADDRESS:	
E-MAIL ADDRESS: NAME AND ADDRESS OF SPOUSE (IF APPLICABLE)		DATE OF BIRTH SOC SEC # OR FEIN: - -	
E-MAIL ADDRESS: NAME AND ADDRESS OF SPOUSE (IF APPLICABLE)		RESIDENCE PHONE (A/C, No) BUSINESS PHONE (A/C, No, Ext)	
E-MAIL ADDRESS: NAME AND ADDRESS OF SPOUSE (IF APPLICABLE)		WHERE TO CONTACT WHEN TO CONTACT	

LOSS

LOCATION OF LOSS Rochester Inn, 505 Rochester Rd. Pgh., PA 15237	POLICE OR FIRE DEPT TO WHICH REPORTED None
KIND OF LOSS FIRE <input type="checkbox"/> LIGHTNING <input type="checkbox"/> FLOOD <input type="checkbox"/> WIND <input type="checkbox"/> OTHER (explain) <input checked="" type="checkbox"/>	PROBABLE AMOUNT ENTIRE LOSS Loss profit due to Covid-19 shut-down \$233,515.00
DESCRIPTION OF LOSS & DAMAGE (Use separate sheet, if necessary) Loss profit due to Covid-19 shut-down	

POLICY INFORMATION

MORTGAGEE
 NO MORTGAGEE

HOMEOWNER POLICIES SECTION 1 ONLY (Complete for coverages A, B, C, D & additional coverages. For Homeowners Section II Liability Losses, use ACORD 3.)

A. DWELLING	B. OTHER STRUCTURES	C. PERSONAL PROPERTY	D. LOSS OF USE	DEDUCTIBLES	DESCRIBE ADDITIONAL COVERAGES PROVIDED
					ON

COVERAGES A. EXCLUDES WIND
 SUBJECT TO FORMS (Insert form numbers and edition dates, special deductibles)

FIRE, ALLIED LINES & MULTI-PERIL POLICIES (Complete only those items involved in loss)

ITEM	SUBJECT OF INSURANCE	AMOUNT	% COINS	DEDUCTIBLE	COVERAGE AND/OR DESCRIPTION OF PROPERTY INSURED
	BLDG <input type="checkbox"/> CNTS <input type="checkbox"/>				
	BLDG <input type="checkbox"/> CNTS <input type="checkbox"/>				
	BLDG <input type="checkbox"/> CNTS <input type="checkbox"/>				

SUBJECT TO FORMS (Insert form numbers and edition dates, special deductibles)

FLOOD POLICY	BUILDING: DEDUCTIBLE:	ZONE	PRE FIRM	DIFF IN ELEV	FORM TYPE	GENERAL DWELLING	CONDO
	CONTENTS: DEDUCTIBLE:		POST FIRM				
WIND POLICY	BUILDING DEDUCTIBLE	CONTENTS	ZONE	FORM TYPE	GENERAL DWELLING	CONDO	

REMARKS/OTHER INSURANCE (List companies, policy numbers, coverages & policy amounts)/NY ONLY: PREVIOUS ADDRESS OF INSURED & WIFE'S MAIDEN NAME **NA**

CAT #	FICO #	ADJUSTER ASSIGNED	ADJUSTER #	DATE ASSIGNED

REPORTED BY: **Todd J DuMont** REPORTED TO: **Jeff Davies** SIGNATURE OF INSURED: **Jeff Davies** SIGNATURE OF PRODUCER: **Jeff Davies**

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

DuMont Brothers, Inc., 505 Rochester Inc. both d/b/a Rochester Inn & Hardwood Grill individually and on behalf of a class of similarly situated persons

(b) County of Residence of First Listed Plaintiff Allegheny (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

John P. Goodrich, Esquire, Jack Goodrich & Associates, 429 Fourth Avenue, Pittsburgh, Pa. 15219 (412) 261-4663

DEFENDANTS

Nautilus Insurance Company

County of Residence of First Listed Defendant Maricopa County, Arizona (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Julian E. Neiser, Esquire, Spilman Thomas & Battle, PLLC, One Oxford Centre, Suite 3440, 301 Grant Street, Pittsburgh, Pa. 15219

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location. Includes options for Citizen of This State, Citizen of Another State, and Citizen or Subject of a Foreign Country.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 USC 1332, 1441, 2201, and 1446

Brief description of cause: Plaintiff seeks insurance coverage under a policy issued by Defendant for alleged business interruption losses.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 07/02/2020 SIGNATURE OF ATTORNEY OF RECORD /s/ Julian E. Neiser

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

JS 44A REVISED June, 2009
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

PART A

This case belongs on the (Erie Johnstown Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.

PART B (You are to check ONE of the following)

1. This case is related to Number _____ . Short Caption _____
2. This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit

EMINENT DOMAIN: Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

PART C

I. CIVIL CATEGORY (Select the applicable category).

1. Antitrust and Securities Act Cases
2. Labor-Management Relations
3. Habeas corpus
4. Civil Rights
5. Patent, Copyright, and Trademark
6. Eminent Domain
7. All other federal question cases
8. All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9. Insurance indemnity, contract and other diversity cases.
10. Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

Date: July 2, 2020

/s/ Julian E. Neiser
Julian E. Neiser, Esquire
Pa. Id. No. 87306

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH FORMS MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Argues Nautilus Insurance Co. Should Cover Restaurant's COVID-19-Related Business Losses](#)
