

# EXHIBIT A

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**California Superior Courts****CA Superior - San Francisco  
(San Francisco)****CGC-15-547372****G Grant Johnson Vs. Hartford Casualty Insurance Company, an Indiana  
et al****This case was retrieved from the court on Friday, September 04, 2015**

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**Header****Case Number:** CGC-15-547372**Date Filed:** 08/13/2015**Date Full Case Retrieved:** 09/04/2015**Misc:** (116) Contract/Warranty; CV[\[Summary\]](#)[\[Participants\]](#)[\[Proceedings\]](#)[\[Calendar\]](#)[\[Payments\]](#)**Summary****Judge:** JOHN K. STEWART**Participants****Litigant**Does 1 to 25  
DefendantHartford Casualty Insurance Company, an Indiana Corporation  
DefendantJohnson, G Grant an Individual on Behalf of Himself And A Class of Similarly  
Situated Persons  
Plaintiff**Attorney**Von Loewenfeldt,  
Michael  
Bar Number : 178665  
Kerr & Wagstaffe Llp  
101 Mission Street, 18th  
FL  
San Francisco, CA  
94105  
USA  
(415) 371-8500**Proceedings****Nbr Entry Date Details**

- 1 08/13/2015 Contract/Warranty, Complaint Filed by Plaintiff Johnson, G Grant an Individual on Behalf of Himself And A Class of Similarly Situated Persons as to Defendant Hartford Casualty Insurance Company, an Indiana Corporation Does 1 to 25 Summons Issued, Judicial Council Civil Case Cover Sheet Filed Case Management Conference Scheduled For Jan-13-2016 Proof of Service Due on Oct-13-2015 Case Management Statement Due on Dec-21-2015 Complex Litigation Assignment Requested by Filing Parties; Fee Included in Filing Fee
- 2 08/13/2015 Notice to Plaintiff
- 3 08/26/2015 Summons on Complaint (Transaction ID # 57774450), Proof of Service Only, Filed by Plaintiff Johnson, G Grant an Individual on Behalf of Himself And A Class of Similarly Situated Persons Served Aug-14-2015, Personal Service on Defendant Hartford Casualty Insurance Company, an Indiana Corporation

#### Calendar

<u>Date</u>	<u>Details</u>
01/13/2016	Matter: Case Management Conference Location: Civic Center Courthouse Room 610 Judge: John K. Stewart

#### Payments

<u>Date</u>	<u>Amount</u>	<u>Payment Type</u>	<u>Receipt</u>	<u>Reason</u>
08/13/2015	\$1,450.00	Credit Card	W0815813f023	Civil Complaint/Petition/Other First Paper
08/13/2015	\$1,450.00	Check	W0815813f023	Civil Complaint/Petition/Other First Paper

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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**Document Scanning Lead Sheet**

Aug-13-2015 4:09 pm

Case Number: CGC-15-547372

Filing Date: Aug-13-2015 3:48

Filed by: ROSSALY DELAVEGA

Juke Box: 001 Image: 05033089

**COMPLAINT**

**G GRANT JOHNSON VS. HARTFORD CASUALTY INSURANCE COMPANY, AN  
INDIANA ET AL**

**001C05033089**

**Instructions:**

Please place this sheet on top of the document to be scanned.

**SUMMONS  
(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

ORIGINAL

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

HARTFORD CASUALTY INSURANCE COMPANY, an Indiana corporation; and DOES 1-25,

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

G. GRANT JOHNSON, an individual, on behalf of himself and a class of similarly situated persons,

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): San Francisco Superior Court  
400 McAllister Street  
San Francisco, CA 94102

CASE NUMBER:  
(Número del Caso)  
**CGC-15-547372**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Micheal von Loewenfeldt, 101 Mission St., 18th Fl., San Francisco, CA 94102 | T: (415) 371-8500

DATE:  
(Fecha) **AUG 13 2015**

CLERK OF THE COURT Clerk, by  
(Secretario)

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)). **DE LA VEGA-NAVARRO, Rossaly**



**NOTICE TO THE PERSON SERVED:** You are served

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):
3.  on behalf of (specify):
 

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4.  by personal delivery on (date):

ORIGINAL

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7 Attorneys for Plaintiff  
 G. GRANT JOHNSON  
 8  
 9

10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
 11 **COUNTY OF SAN FRANCISCO**  
 12 **UNLIMITED JURISDICTION**

CGC-15-547312

14 G. GRANT JOHNSON, an individual, on behalf  
 15 of himself and a class of similarly situated  
 16 persons,

17 Plaintiff,

18 v.

19 HARTFORD CASUALTY INSURANCE  
 20 COMPANY, an Indiana corporation; and DOES  
 21 1-25,

22 Defendants.

**CLASS ACTION**

Case No.

**COMPLAINT FOR:**

- 13 (1) BREACH OF CONTRACT
- 14 (2) BREACH OF IMPLIED COVENANT ("BAD FAITH")
- 15 (3) DECLARATORY RELIEF
- 16 (4) UNFAIR BUSINESS PRACTICES (BUS. & PROF. CODE § 17200)

**DEMAND FOR JURY TRIAL**

**FILED**  
 Superior Court of California  
 County of San Francisco  
 AUG 13 2015  
 CLERK OF THE COURT  
 BY: *[Signature]*  
 Deputy Clerk

1 Plaintiff G. Grant Johnson, on behalf of himself and all others similarly situated, allege as  
2 follows:

3 **PARTIES**

4 1. Plaintiff G. Grant Johnson is an individual who resides in Napa, California,  
5 conducts business in San Francisco, California and is a citizen of the State of California.

6 2. Plaintiff seeks to represent a class of persons (the "Class") defined as follows:

7 All California residents insured under a HARTFORD insurance  
8 who suffered a partial loss of a covered structure within the  
9 applicable statute of limitations period including any period of  
10 tolling who was not paid the limits of the applicable coverage and  
11 whose indemnity payment for the structure was decreased as a  
12 result of depreciation of sales tax and/or one or more of the  
13 following structural components: baseboards/trim,  
14 cement/concrete/asphalt, doors, drywall, electrical wiring,  
15 fireplace, framing/rough carpentry, insulation, lath and plaster,  
16 masonry, marble, ornamental iron, plumbing, stucco, and/or stairs.

17 3. Defendant HARTFORD CASUALTY INSURANCE COMPANY, INC.

18 (hereinafter "HARTFORD") is a corporation organized and existing under the laws of the State  
19 of Indiana. Their principal place of business is in Hartford, Connecticut. HARTFORD insures a  
20 large number of buildings and structures for policy holders who reside in California, employs  
21 sales agents and maintains various facilities in California and otherwise has conducted  
22 continuous and substantial activities within California which make it amenable to the exercise of  
23 personal jurisdiction by this Court.

24 **VENUE**

25 4. Venue is appropriate in San Francisco County because it is where the insured  
26 property was located.

27 **GENERAL FACTUAL ALLEGATIONS**

28 5. Payment of actual cash value ("ACV") for an insurance loss in California is  
governed by Insurance Code section 2051, which specifies, among other things, how and when  
depreciation may be calculated on a partial loss. HARTFORD is required to comply with the  
provisions of California Insurance Code section 2051(b) and the regulations promulgated  
thereunder.

1           6.       In a partial loss, Insurance Code section 2051(b)(2) requires that ACV shall be  
2 calculated as follows:

3                       In case of a partial loss to the structure, or loss to its contents, the  
4 amount it would cost the insured to repair, rebuild, or replace the  
5 thing lost or injured less a fair and reasonable deduction for  
6 physical depreciation based upon its condition at the time of the  
7 injury or the policy limit, whichever is less. In case of a partial loss  
8 to the structure, a deduction for physical depreciation shall apply  
9 only to components of a structure that are normally subject to  
10 repair and replacement during the useful life of that structure.

11           7.       Accordingly, Insurance Code section 2051 allows insurers to make a “fair and  
12 reasonable” deduction for “physical depreciation” based upon the “condition” of the damaged  
13 property at the time of the loss. Insurance Code section 2051 also prohibits, however, deductions  
14 for “physical depreciation” of structural components that are not normally subject to repair and  
15 replacement during the useful life of a structure.

16           8.       These provisions of Insurance Code section 2051 were added to California law in  
17 2004 as AB 2962. Consistently throughout the legislative history of these provisions, the  
18 California Insurance Commissioner explained that the law is intended to prevent depreciation of  
19 parts of the structure such as “two-by-four studs, drywall, cement posts, and other components  
20 that do not usually wear out.”

21           9.       Plaintiff G. Grant Johnson, doing business as Stimulus, was insured under  
22 HARTFORD’s Business Owners Insurance Policy No. 57 SBA DO0133 (attached as Exhibit A).  
23 He owned property that was insured under the policy and located in San Francisco, California.  
24 The insured building suffered a partial loss as a result of a fire on December 20, 2013.

25           10.       Plaintiff’s policy stated that HARTFORD may pay the actual cash value for  
26 property.

27           11.       The policy echoes Insurance Code section 2051, and provides that the actual cash  
28 value of a partial loss to an insured building or structure is determined by whichever is less of:

- (1) The amount it would cost to repair, rebuild or replace the property less a fair and reasonable deduction for physical depreciation of the components of the building or structure that are normally subject to repair or replacement during its useful life. Physical depreciation is based upon the condition of the property at the time of the loss;
- (2) The limit of Insurance applicable to property.



1 12. Following his loss, Plaintiff submitted his property claims to HARTFORD.

2 13. In calculated its ACV payment for the Plaintiff's structural loss, HARTFORD  
3 depreciated all components of Plaintiff's structural loss without regard to whether the  
4 components were normally subject to repair and replacement during the useful life of that  
5 structure. HARTFORD depreciated numerous components that are expected to last during the  
6 useful life of the structure without any repair or replacement, and thus were not subject to  
7 depreciation at all under Insurance Code section 2051(b) or the terms of HARTFORD's  
8 insurance policy. In particular, HARTFORD unlawfully took the following depreciation on  
9 items not normally subject to repair and replacement during the useful life of the structure:

	Amount of Depreciation	Percentage Depreciation
11 Baseboards/Trim	\$746.97	7.61%
12 Cement	\$4.96	0.55%
13 Doors	\$1,065.55	26.42%
14 Drywall	\$2,462.42	19.81%
15 Electrical wiring	\$9,688.17	32.18%
16 Framing and rough carpentry	\$1,472.21	7.74%
17 Insulation	\$1,368.23	28.14%
18 Lath and plaster	\$17,366.80	20.21%
19 Marble	\$145.22	80.00%
20 Ornamental iron	\$85.16	8.76%
21 Plumbing	\$2,434.25	42.16%
22 Stairs	\$18.75	10.00%

23 14. In addition, HARTFORD unlawfully underpays actual cash value by decreasing  
24 the sales tax component of actual cash value by the percentage of physical depreciation taken on  
25 the claim. Sales tax is a necessary component of the "cost to repair, rebuild or replace the  
26 property" and thus must be included in the ACV calculation. Sales tax is not, however, subject  
27 to physical depreciation because it is an intangible, not something that can wear out. Neither  
28 California law nor the insurance policy allow HARTFORD to take depreciation on the sales tax  
component of ACV.

15 15. To protect California insureds from arbitrary or improper deductions for

1 depreciation such as these, California Code of Regulation section 2695.9(f) states, in pertinent  
2 part, “[w]hen the amount claimed is adjusted for betterment, depreciation or salvage, all  
3 justification for the adjustment shall be contained in the claim file . . . The basis for any  
4 adjustment shall be fully explained to claimant in writing.” Plaintiff is informed and believes,  
5 and thereupon alleges, that HARTFORD does not independently justify the depreciation in the  
6 claim file as required by California Code of Regulation section 2695.9(f).

7 16. Accordingly, during the relevant time period, HARTFORD violated its contracts,  
8 Insurance Code section 2051(b) and California Code of Regulation section 2695.9(f) by (1)  
9 taking depreciation on structural components not subject to depreciation under California law  
10 and the insurance contract, (2) taking depreciation on sales tax, and (3) failing to document the  
11 basis for each deduction.

12 17. Plaintiff is further informed and believes HARTFORD willfully chose to ignore  
13 Insurance Code section 2051(b) and California Code of Regulations section 2695.9(f) despite  
14 full knowledge of these provisions of law.

15 18. Plaintiff is further informed and believes that, as happened in his claim, when  
16 insureds challenge HARTFORD’s unlawful depreciation methodology that results in  
17 “lowballing” claims to insureds, HARTFORD does not re-adjust the claims in compliance with  
18 Insurance Code section 2051(b). Instead, HARTFORD attempts to coerce insureds into  
19 mandatory appraisal of the insurance policy, despite the fact that the appraisal provisions of the  
20 standard form policy are not applicable to a dispute over the interpretation of Insurance Code  
21 section 2051 or the insurance policy.

22 19. HARTFORD’s conduct as it relates to Insurance Code section 2051 and other  
23 implementing regulations has tolled any applicable statutes of limitations against it under the  
24 doctrines of equitable tolling and equitable estoppel.

25 **CLASS ACTION ALLEGATIONS**

26 20. Plaintiff brings this action as a class action pursuant to California Code of Civil  
27 Procedure section 382.

28 21. Numerosity: Plaintiff is informed and believes, and thereupon alleges, that the

1 Class contains thousands of members and that joinder of the claims of the Class in a single action  
2 is therefore impracticable.

3 22. Common Questions: There exist questions of law and fact common to all  
4 members of the Class. Common legal and factual questions include, but are not limited to, the  
5 following:

6 a. Whether HARTFORD complies with Insurance Code sections 2051(b), 2071 and  
7 California Code of Regulations section 2695.9(f) in adjusting partial structure loss  
8 claims in California;

9 b. Whether HARTFORD wrongfully takes depreciation from structural components  
10 that are not normally repaired or replaced during the useful life of a structure;

11 c. Whether each of the following items is subject to depreciation under Insurance  
12 Code section 2051(b) and the HARTFORD policy: baseboards/trim,  
13 cement/concrete/asphalt, doors, drywall, electrical wiring, fireplace,  
14 framing/rough carpentry, insulation, lath and plaster, masonry, marble,  
15 ornamental iron, plumbing, stucco, and/or stairs.

16 d. Whether HARTFORD wrongfully depreciates sales tax;

17 e. Whether HARTFORD fails to document the depreciation it takes as required by  
18 California Code of Regulations section 2695.9(f);

19 e. Whether HARTFORD has a practice of “lowballing” insureds with excessive  
20 depreciation practices in an effort to unlawfully coerce their insureds into the  
21 inapplicable, expensive and futile appraisal process.

22 23. Typicality: Plaintiff’s claims are typical of the claims of the Class in that all such  
23 claims arise out of the improper settlement of property claims by the use of improper  
24 depreciation methods that do not comport with the requirements of Insurance Code section  
25 2051(b). Plaintiff and the Class have suffered a common injury arising out of HARTFORD’s  
26 common course of conduct as alleged herein. The relevant provisions of HARTFORD’s policies  
27 issued during the relevant time period are substantially the same for each member of the Class.  
28 HARTFORD has depreciated property claims of Plaintiff and the Class in the same manner,

1 following the same or substantially the same methods and criteria. In response to Plaintiff's  
2 objections to its illegal depreciation method, HARTFORD admitted that the previously described  
3 method is HARTFORD's "standard approach to depreciation for all partial property losses."

4 24. Adequacy of Representation: Plaintiff will fairly and adequately protect the  
5 interests of the Class. Plaintiff has no interests which conflict with the Class and have retained  
6 attorneys who are experienced in the prosecution of complex consumer class action litigation.

7 25. Community of Interest: Questions of law or fact common to the Class  
8 predominate over any questions affecting only individual members. The issues raised in this  
9 action involve: (1) substantially identical insurance policies; (2) a uniform regulation governing  
10 the depreciation of property; (3) practices which were used uniformly by HARTFORD to  
11 depreciate property; (4) a common intention on the part of HARTFORD with respect to the use  
12 of their standard depreciation methods; and (5) a uniform overstatement of the depreciation of  
13 property. There are no material questions in this action which are not common to Plaintiff and  
14 the Class.

15 26. Superiority of The Class Action Procedure: Class treatment of the claims asserted  
16 by Plaintiff is superior to other methods of adjudicating the claims of the Class in that:

- 17 a. The prosecution of separate actions by individual members of the Class would  
18 create a foreseeable risk of inconsistent or varying adjudications which would  
19 establish incompatible results and standards of conduct for HARTFORD;
- 20 b. Class action treatment avoids the waste and duplication inherent in thousands of  
21 individual actions and conserves the resources of the courts;
- 22 c. The cost of litigating individual claims relating to Insurance Code section 2051(b)  
23 is so great that, in the absence of a class action, members of the Class have no  
24 effective remedy. Because of the relatively small size of their claims and the high  
25 cost of litigation, in the absence of a class action it is likely that no member of the  
26 Class would seek legal redress for the violations alleged herein;
- 27 d. Class members are unlikely to be interested in the control of their individual  
28 claims because the claims are essentially identical and, if a particular member of

- 1 the Class has a compelling reason to control his or her claim, he or she may opt
- 2 out of the Class;
- 3 e. Plaintiff is aware of no litigation which has been commenced by or against
- 4 members of the Class relating to the issues addressed in this litigation;
- 5 f. There are no difficulties which arise from the concentration of the claims asserted
- 6 herein in a single forum and there are considerable economies in such
- 7 concentration;
- 8 g. There are no difficulties in managing this action because of the virtual identity of
- 9 legal and factual issues required to be resolved for Plaintiff and the Class;
- 10 h. HARTFORD has refused to act on grounds that apply generally to the class, so
- 11 that final injunctive relief or corresponding declaratory relief is appropriate
- 12 respecting the class as a whole;

13 Accordingly, this case should be maintained as a class action.

14 **FIRST CAUSE OF ACTION**  
15 **BREACH OF CONTRACT**  
**(By Plaintiff and the Class against HARTFORD)**

16 27. Plaintiff re-alleges and incorporates by reference paragraphs 1-26 as if they were  
17 fully set forth herein.

18 28. HARTFORD entered into a written insurance contract with Plaintiff to provide  
19 coverage for the loss or damage to building or structure. The terms of such contract are set forth  
20 in the HARTFORD policy. As previously alleged, Insurance Code sections 2051(b), 2071 and  
21 California Code of Regulation section 2695.9(f) forms a part of the contract between  
22 HARTFORD, on the one hand, and Plaintiff, on the other.

23 29. HARTFORD entered into materially similar contracts of insurance with the Class.

24 30. Plaintiff and the Class members each performed their duties under the insurance  
25 contract, including payment of premiums, and coverage was in effect at the time that they made  
26 claims.

27 31. HARTFORD breached its obligation under the contract of insurances with  
28 Plaintiff and the Class by failing to pay Plaintiff and each Class Member actual cash value for his

1 or her loss as a result of (a) improper deductions for physical depreciation on structural  
2 components that are not subject to depreciation and (b) taking a deduction for “depreciation”  
3 from the amount attributed to sales taxes.

4 32. The breaches of contract by HARTFORD caused loss and damage to Plaintiff and  
5 the Class.

6 WHEREFORE, Plaintiff prays for judgment as set forth below.

7 **SECOND CAUSE OF ACTION**  
8 **BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**  
9 **(By Plaintiff and the Class against HARTFORD)**

10 33. Plaintiff re-alleges and incorporates by reference paragraphs 1-26 as if they were  
11 fully set forth herein.

12 34. The covenant of good faith and fair dealing implied in every contract requires that  
13 each party refrain from any act extraneous to the provisions of the contract that would deprive  
14 the other party of the benefits of the contract. In addition, California law imposes on  
15 HARTFORD, as an insurer, a duty of the utmost good faith and fair dealing toward its  
16 policyholders when settling their claims.

17 35. Under the covenant of good faith and fair dealing implied into the insurance  
18 contracts between HARTFORD and Plaintiff and other members of the Class, HARTFORD was  
19 obligated to settle property claims fairly, honestly and reasonably using a depreciation method  
20 that complies with Insurance Code section 2051(b) and California Code of Regulation section  
21 2695.9(f).

22 36. HARTFORD breached the covenant of good faith and fair dealing by: (1)  
23 representing falsely that the amount set forth in its settlement was the “actual cash value” of  
24 structural components when HARTFORD knew that it was not; (2) concealing from Plaintiff and  
25 the Class that the depreciation applied by its standard policy was not in accordance with  
26 Insurance Code section 2051(b) and other applicable regulations even though HARTFORD  
27 knew that such deductions were not fair, justified, or reasonable; (3) by applying depreciation to  
28 structural components that are not normally repaired or replaced during the useful life of the  
structure; and (4) by attempting to force insureds into appraisal after illegally lowballing the

1 claims as described above.

2 37. As a result of the breach by HARTFORD of the covenant of good faith and fair  
3 dealing, Plaintiff and the Class have been damaged.

4 38. HARTFORD knew it was violating the law with its depreciation methodology  
5 and did so in order to illegally profit at the expense of its insureds. HARTFORD therefore has  
6 acted with malice, oppression and fraud. HARTFORD has been intentionally dishonest and has  
7 showed a conscious disregard to its insureds' rights by ignoring Insurance Code section 2051 and  
8 other implementing regulations.

9 39. HARTFORD's intentional conduct as alleged herein constitutes malice under  
10 Civil Code section 3294(c)(1), justifying the imposition of punitive damages because  
11 HARTFORD ignored the clear legislative mandate of section 2051 by acting with knowing  
12 disregard when it was aware of the probable harmful consequences of its conduct in ignoring  
13 Insurance Code section 2051 and deliberately failed to avoid those consequences by simply  
14 complying with applicable law.

15 40. HARTFORD's intentional bad faith, as alleged herein, was in derogation of its  
16 duty of good faith to its policyholders and resulted in substantial economic hardship to Plaintiff  
17 and the Class. HARTFORD's conduct in these matters constitutes oppression under Civil Code  
18 section 3294(c)(2), justifying the imposition of punitive damages, because HARTFORD's  
19 conduct constitutes vile, base, contemptible, miserable, wretched and loathsome conduct that is  
20 looked down upon and despised by ordinary people.

21 41. HARTFORD uses the depreciation for the purpose of deceiving Plaintiff and the  
22 Class into accepting less than the full value to which they were entitled in settlement of their  
23 claims. HARTFORD's deceitful, bad faith conduct, as alleged herein, constitutes fraud under  
24 Civil Code section 3294, justifying the imposition of punitive damages, because HARTFORD  
25 intentionally misrepresented or concealed material facts relating to the proper depreciation  
26 methodology that must be followed under Insurance Code section 2051 and did so intending to  
27 harm Plaintiff and the Class.

28 WHEREFORE, Plaintiff prays for judgment as set forth below.

**THIRD CAUSE OF ACTION**  
**DECLARATORY RELIEF**  
**(By Plaintiff and the Class against HARTFORD)**

42. Plaintiff re-alleges and incorporates by reference paragraphs 1-26 as if they were fully set forth herein.

43. An actual controversy has arisen and now exists between the parties concerning whether Defendant is violating Insurance Code section 2051(b) and the other regulations cited herein, including but not limited to:

(a) whether HARTFORD is legally permitted to take depreciation on baseboards/trim, cement/concrete/asphalt, doors, drywall, electrical wiring, fireplace, framing/rough carpentry, insulation, lath and plaster, masonry, marble, ornamental iron, plumbing, stucco, and/or stairs;

(b) whether HARTFORD is legally permitted to take depreciation on sales tax included in the calculation of replacement cost; and

(c) whether HARTFORD is required to disclose the specific basis for each deduction for depreciation; entitled to conceal its method of depreciation from its insureds.

44. Plaintiff is informed and believes that HARTFORD disputes that it is violating Insurance Code section 2051(b) and other regulations cited herein.

45. Plaintiff seeks a declaration that defines the rights and obligations under the Policies, on behalf of himself and all others similarly situated.

46. Pursuant to the Declaratory Judgment Act, Plaintiff requires a judicial determination of the parties' rights and obligations regarding Insurance Code section 2051 and injunctive relief as warranted.

47. Accordingly, a judicial declaration is necessary and appropriate at this time.

WHEREFORE, Plaintiff prays for judgment as set forth below.

**FOURTH CAUSE OF ACTION**  
**VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200**  
**(By Plaintiff and the Class against HARTFORD)**

48. Plaintiff re-alleges and incorporates by reference paragraphs 1-26 as if they were fully set forth herein.



1 48. California Business & Professions Code section 17200 (the “Unfair Competition  
2 Law”) prohibits acts of “unfair competition,” including any “unlawful, unfair or fraudulent  
3 business act or practice.”

4 49. California Business & Professions Code section 17204 sets forth the standing  
5 requirements for an unfair competition action. It provides than an individual may pursue such an  
6 action if the person “suffered injury in fact and has lost money or property as a result of unfair  
7 competition.” Plaintiff has standing in this action because he has suffered an injury in fact and  
8 lost money or property in the form of an understatement of the value of his property claims  
9 though a depreciation method that does not comply with Insurance Code section 2051(b) and  
10 other applicable regulations. Plaintiff and the Class are entitled to restitution of the wrongfully  
11 withheld amounts and an injunction correcting and prohibiting the wrongful practice.

12 50. HARTFORD further violated the Unfair Competition Law when it violated  
13 Insurance Code section 2051(b) as described previously. HARTFORD continues to violate the  
14 Unfair Competition Law by breaching the insurance contracts and failing to comply with  
15 Insurance Code section 2051(b) as heretofore alleged.

16 51. As a direct and proximate result of HARTFORD’s violation of the Unfair  
17 Competition Law, Plaintiff and the Class have suffered injury and will continue to suffer injury  
18 as a result of the underpayment of the actual cash value of their losses.

19 52. Plaintiff and the Class seek an order from the Court enjoining HARTFORD, and  
20 those in concert and participation with it, from conducting or participating in the acts alleged in  
21 this Complaint to violate the Unfair Competition Law and for the re-adjustment of illegally  
22 adjusted claims. Plaintiff and the Class also seek an order from the Court for restitution and/or  
23 disgorgement of profits in the form of excessive depreciation withheld from payment as a result  
24 of the unlawful practices discussed above.

25 WHEREFORE, Plaintiff prays for judgment as set forth below.

26 **PRAYER**

27 WHEREFORE, Plaintiff prays for judgment against HARTFORD as follows:

28 a. For certification of this action as a class action;

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- b. For damages according to proof at trial;
- c. For a declaration regarding the party’s respective rights under Insurance Code section 2051(b);
- d. For an order requiring HARTFORD to readjust all claims of class members in accordance with Insurance Code section 2051(b);
- e. For an order to HARTFORD to administer its policies in accordance with Insurance Code section 2051(b);
- f. For an order prohibiting HARTFORD from taking depreciation on structural components not normally repaired or replaced during the useful life of the structure;
- g. For an order prohibiting HARTFORD from taking depreciation on sales tax included in the calculation of replacement cost;
- h. For an order requiring HARTFORD to provide a specific explanation of how depreciation was calculated on claims including an analysis of the condition of the claims;
- i. For restitution of excessive depreciation withheld as a result of the unlawful practices discussed above;
- j. For exemplary and punitive damages as permitted by law;
- k. For reasonable attorneys’ fees and costs of suit pursuant to Code of Civil Procedure section 1021.5 or any other applicable law;
- l. For such other and further relief as the Court deems just and proper in the premises.

DATED: 8/13/15

**KERR & WAGSTAFFE LLP**

By:   
MICHAEL VON LOEWENFELDT

Attorneys for Plaintiff  
G. GRANT JOHNSON

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**DEMAND FOR JURY TRIAL**

PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY.

DATED: 8/13/2015

**KERR & WAGSTAFFE LLP**

By:   
MICHAEL VON LOEWENFELDT

Attorneys for Plaintiff  
G. GRANT JOHNSON

**EXHIBIT A**

# Hartford Spectrum

Business Insurance Policy



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

**INSURER:** HARTFORD CASUALTY INSURANCE COMPANY  
ONE HARTFORD PLAZA, HARTFORD, CT 06155  
**COMPANY CODE:** 3



**Policy Number:** 57 SBA D00133 DX

**SPECTRUM POLICY DECLARATIONS**

**Named Insured and Mailing Address:** G. GRANT JOHNSON  
(No., Street, Town, State, Zip Code) DBA: STIMULUS  
P.O. BOX 170519  
SAN FRANCISCO CA 94117

**Policy Period:** From 04/15/13 To 04/15/14 1 YEAR  
12:01 a.m., Standard time at your mailing address shown above. **Exception:** 12 noon in New Hampshire.

**Name of Agent/Broker:** CLAYSCOTT INSURANCE AGENCY INC/PHS  
**Code:** 555899

**Previous Policy Number:** 57 SBA D00133

**Named Insured is:** INDIVIDUAL

**Audit Period:** NON-AUDITABLE

**Type of Property Coverage:** SPECIAL

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

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**TOTAL ANNUAL PREMIUM IS:** \$7,802

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Countersigned by *Quintin R. Gjer* 01/31/13  
Authorized Representative Date

**SPECTRUM POLICY DECLARATIONS (Continued)**

**POLICY NUMBER:** 57 SBA D00133

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

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

321-329 DIVISADERO  
SAN FRANCISCO CA 94117

**Description of Business:** LESSORS RISK  
PHOTOGRAPHY STUDIO - BUILDING OWNER OCCUPIES LESS THAN 75%

**Deductible:** \$ 500 PER OCCURRENCE

**BUILDING AND BUSINESS PERSONAL PROPERTY LIMITS OF INSURANCE**

**BUILDING**

REPLACEMENT COST      \$ 1,942,300

**BUSINESS PERSONAL PROPERTY**

REPLACEMENT COST      \$ 41,100

**PERSONAL PROPERTY OF OTHERS**

REPLACEMENT COST      NO COVERAGE

**MONEY AND SECURITIES**

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

**SPECTRUM POLICY DECLARATIONS (Continued)**

**POLICY NUMBER: 57 SBA D00133**

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

**Location: 001 Building: 001**

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

**STRETCH COVERAGES**  
**FORM: SS 04 08**  
**THIS FORM INCLUDES MANY ADDITIONAL COVERAGES AND EXTENSIONS OF COVERAGES. A SUMMARY OF THE COVERAGE LIMITS IS ATTACHED.**

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

**FORM SS 40 93**  
**THIS IS THE MAXIMUM AMOUNT OF INSURANCE FOR THIS COVERAGE, SUBJECT TO ALL PROPERTY LIMITS FOUND ELSEWHERE ON THIS DECLARATION.**  
**INCLUDING BUSINESS INCOME AND EXTRA EXPENSE COVERAGE FOR: 30 DAYS**



**SPECTRUM POLICY DECLARATIONS (Continued)**

**POLICY NUMBER:** 57 SBA DO0133

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

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

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

**INCREASED LIMIT FOR PERSONAL  
PROPERTY OFF-PREMISES:** \$ 20,000  
**FORM SS 04 20**

**EQUIPMENT BREAKDOWN COVERAGE  
COVERAGE FOR DIRECT PHYSICAL LOSS  
DUE TO:  
MECHANICAL BREAKDOWN,  
ARTIFICIALLY GENERATED CURRENT  
AND STEAM EXPLOSION**

**THIS ADDITIONAL COVERAGE INCLUDES  
THE FOLLOWING EXTENSIONS**

<b>HAZARDOUS SUBSTANCES</b>	\$ 50,000
<b>EXPEDITING EXPENSES</b>	\$ 50,000

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

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

**SPECTRUM POLICY DECLARATIONS (Continued)**

**POLICY NUMBER: 57 SBA D00133**

<b>BUSINESS LIABILITY</b>	<b>LIMITS OF INSURANCE</b>
<b>LIABILITY AND MEDICAL EXPENSES</b>	<b>\$1,000,000</b>
<b>MEDICAL EXPENSES - ANY ONE PERSON</b>	<b>\$ 10,000</b>
<b>PERSONAL AND ADVERTISING INJURY</b>	<b>\$1,000,000</b>
<b>DAMAGES TO PREMISES RENTED TO YOU ANY ONE PREMISES</b>	<b>\$ 300,000</b>
<b>AGGREGATE LIMITS</b>	
<b>PRODUCTS-COMPLETED OPERATIONS</b>	<b>\$2,000,000</b>
<b>GENERAL AGGREGATE</b>	<b>\$2,000,000</b>

**SPECTRUM POLICY DECLARATIONS (Continued)**

**POLICY NUMBER: 57 SBA D00133**

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

SS 00 01 04 93	SS 00 05 12 06	SS 00 07 07 05	SS 00 08 04 05
SS 00 45 12 06	SS 84 01 09 07	SS 01 21 07 08	SS 04 08 09 07
SS 04 19 07 05	SS 04 20 07 05	SS 04 22 07 05	SS 04 30 07 05
SS 04 39 07 05	SS 04 41 07 05	SS 04 42 09 07	SS 04 44 07 05
SS 04 45 07 05	SS 04 46 10 08	SS 04 47 04 09	SS 04 80 03 00
SS 04 86 03 00	SS 40 18 07 05	SS 40 93 07 05	SS 41 12 12 07
SS 41 51 10 09	SS 41 62 06 11	SS 41 63 06 11	IH 10 01 09 86
SS 05 47 09 01	SS 50 57 04 05	SS 50 19 03 12	IH 99 40 04 09
IH 99 41 04 09	SS 38 25 12 07	SS 83 76 03 12	
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## **COMMON POLICY CONDITIONS**

**QUICK REFERENCE - SPECTRUM POLICY**

**DECLARATIONS  
and  
COMMON POLICY CONDITIONS**

**I. DECLARATIONS**

Named Insured and Mailing Address  
Policy Period  
Description and Business Location  
Coverages and Limits of Insurance

**II. COMMON POLICY CONDITIONS**

**Beginning on Page**

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



## COMMON POLICY CONDITIONS

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

### A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. 5 days before the effective date of cancellation if any one of the following conditions exists at any building that is Covered Property in this policy:

(1) The building has been vacant or unoccupied 60 or more consecutive days. This does not apply to:

- (a) Seasonal unoccupancy; or
- (b) Buildings in the course of construction, renovation or addition.

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

(2) After damage by a Covered Cause of Loss, permanent repairs to the building:

- (a) Have not started; and
- (b) Have not been contracted for, within 30 days of initial payment of loss.

(3) The building has:

- (a) An outstanding order to vacate;
- (b) An outstanding demolition order; or
- (c) Been declared unsafe by governmental authority.

(4) Fixed and salvageable items have been or are being removed from the building and are not being replaced. This does not apply to such removal that is necessary or incidental to any renovation or remodeling.

### (5) Failure to:

(a) Furnish necessary heat, water, sewer service or electricity for 30 consecutive days or more, except during a period of seasonal unoccupancy; or

(b) Pay property taxes that are owing and have been outstanding for more than one year following the date due, except that this provision will not apply where you are in a bona fide dispute with the taxing authority regarding payment of such taxes.

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

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

3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.

4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

5. If this policy is canceled, we will send the first Named Insured any premium refund due. Such refund will be pro rata. 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.

7. If the first Named Insured cancels this policy, we will retain no less than \$100 of the premium.

### B. Changes

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

**COMMON POLICY CONDITIONS****C. Concealment, Misrepresentation Or Fraud**

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

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

**D. Examination Of Your Books And Records**

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

**E. Inspections And Surveys**

We have the right but are not obligated to:

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

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

1. Are safe or healthful; or
2. Comply with laws, regulations, codes or standards.

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

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

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

**G. Liberalization**

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

**H. Other Insurance - Property Coverage**

If there is other insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance.

**I. Premiums**

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

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

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

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

Applicable to Property Coverage:

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

1. Prior to a loss to your Covered Property.
2. After a loss to your Covered Property 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

**COMMON POLICY CONDITIONS**

**c. Your tenant.**

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

This will not restrict your insurance.

**K. Transfer Of Your Rights And Duties Under This Policy**

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

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

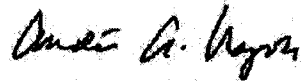
**L. Premium Audit**

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

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



**Terance Shields, Secretary**



**André A. Napoli, President**



**SPECIAL PROPERTY COVERAGE FORM**

## QUICK REFERENCE

### SPECIAL PROPERTY COVERAGE FORM READ YOUR POLICY CAREFULLY

<b>SPECIAL PROPERTY COVERAGE FORM</b>	<b>Beginning on Page</b>
<b>A. COVERAGES</b>	<b>1</b>
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Property Not Covered	1
Covered Causes of Loss	2
Limitations	2
Additional Coverages	3
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<b>G. PROPERTY DEFINITIONS</b>	<b>24</b>



## SPECIAL PROPERTY COVERAGE FORM

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

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

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

### A. COVERAGE

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

#### 1. Covered Property

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

- a. **Buildings**, meaning only building(s) and structure(s) described in the Declarations, including:
  - (1) Completed additions;
  - (2) Permanently installed:
    - (a) Fixtures;
    - (b) Machinery; and
    - (c) Equipment;
  - (3) Outdoor fixtures;
  - (4) Your personal property in apartments, rooms or common areas furnished by you as landlord;
  - (5) Building Glass, meaning glass that is part of a building or structure;
  - (6) Personal property owned by you that is used to maintain or service the buildings or structures on the premises, including:
    - (a) Fire extinguishing equipment;
    - (b) Outdoor furniture;
    - (c) Floor coverings; and
    - (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering; and
  - (7) If not covered by other insurance:
    - (a) Additions under construction, alterations and repairs to the buildings or structures;

- (b) Materials, equipment, supplies and temporary structures, on or within 1,000 feet of the "scheduled premises", used for making additions, alterations or repairs to the buildings or structures.

- b. **Business Personal Property** located in or on the building(s) described in the Declarations at the "scheduled premises" or in the open (or in a vehicle) within 1,000 feet of the "scheduled premises", including:
  - (1) Property you own that is used in your business;
  - (2) Tools and equipment owned by your employees, which are used in your business operations;
  - (3) Property of others that is in your care, custody or control;
  - (4) "Tenant Improvements and Betterments"; and
  - (5) Leased personal property for which you have contractual responsibility to insure, unless otherwise provided for under Personal Property of Others.

#### 2. Property Not Covered

Covered Property does not include:

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

**SPECIAL PROPERTY COVERAGE FORM**

- e. Land (including land on which the property is located), water, growing crops or lawns;
- f. Outdoor fences, radio or television antennas (including satellite dishes), including their lead in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants (other than those held for sale or sold but not delivered), except as any of these may be provided in the:
- (1) Outdoor Property Coverage Extension; or
  - (2) Outdoor Signs Optional Coverage;
- g. Watercraft (including motors, equipment and accessories) while afloat;
- h. The cost to research, replace or restore the information on "valuable papers and records", except as may be provided in any Coverage Extensions or Optional Coverages.
- i. "Data" and "software" which exists on electronic "media" including the cost to research, replace or restore them, except as may be provided for in any Additional Coverages or Optional Coverages.
- j. Accounts, bills, food stamps, other evidences of debt, accounts receivable or "valuable papers and records"; except as otherwise provided for in this policy.
- 3. Covered Causes of Loss**  
**RISKS OF DIRECT PHYSICAL LOSS** unless the loss is:
- a. Excluded in Section B., **EXCLUSIONS**; or
  - b. Limited in Paragraph A.4. Limitations; that follow.
- 4. Limitations**
- a. We will not pay for direct loss of or damage to:
- (1) Property that is missing, where the only evidence of the direct physical loss or physical damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property. This limitation does not apply to the Additional Coverage for "Money" and "Securities".
  - (2) Property that has been transferred to a person or to a place outside the "scheduled premises" on the basis of unauthorized instructions.
  - (3) The interior of any building or structure caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
    - (a) The building or structure first sustains physical damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or
    - (b) The direct physical loss or physical damage is caused by or results from thawing of snow, sleet, or ice on the building or structure.
- b. Pets and animals are covered only if:
- (1) They are inside the building; and
  - (2) They are owned by others and boarded by you, or owned by you and held for sale or sold but not delivered.
- And then we will pay only if they are killed, stolen, or their destruction is made necessary by a "specified cause of loss".
- c. For direct physical loss or physical damage by "theft", the following types of property are covered only up to the limits shown:
- (1) \$2,500 for furs, fur garments and garments trimmed with fur;
  - (2) \$5,000 for jewelry, watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$500 or less per item;
  - (3) \$2,500 for patterns, dies, molds and forms; and
  - (4) \$500 for stamps, lottery tickets held for sale and letters of credit.
- d. Unless specifically provided under a separate endorsement and with a specific Limit of Insurance indicated in the Declarations, we will not pay for direct physical loss of or physical damage to "perishable stock" caused by or resulting from:
- (1) A change in temperature or humidity resulting from:
    - (a) Mechanical breakdown or failure of:
      - (i) Stationary heating plants; or
      - (ii) Refrigerating, cooling, or humidity control apparatus or equipment;
    - (b) Artificially generated electric current, including electric arcing, that disturbs electrical devices, appliances or wires; or
    - (c) Complete or partial failure of electric power on your "scheduled premises".
  - (2) Contamination by refrigerant.

**SPECIAL PROPERTY COVERAGE FORM****5. Additional Coverages****a. Collapse**

- (1) With respect to Buildings:
- (a) Collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building cannot be occupied for its intended purpose;
  - (b) A building or any part of a building that is in danger of falling down or caving in is not considered to be in a state of collapse;
  - (c) A part of a building that is standing is not considered to be in a state of collapse even if it has separated from another part of the building;
  - (d) A building that is standing or any part of a building that is standing is not considered to be in a state of collapse even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage, or expansion.
- (2) We will pay for direct physical loss or physical damage caused by or resulting from risks of collapse of a building or any part of a building that is insured by this policy caused only by one or more of the following:
- (a) "Specified cause of loss" or breakage of building glass, if such loss or breakage was covered by this policy;
  - (b) Decay that is hidden from view, unless the presence of such decay was known to an insured prior to collapse;
  - (c) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;
  - (d) Weight of people or personal property;
  - (e) Weight of rain that collects on a roof; and
  - (f) Use of defective material or methods in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation.

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

- (3) If the collapse is caused by a Covered Cause of Loss listed in Paragraphs (2)(b) through (2)(f), we will pay for direct physical loss of or physical damage to the property listed below, but only if such physical loss or physical damage is a direct result of the collapse of a building insured under this policy, and the property is property covered under this policy:
- (a) Awnings; gutters and downspouts; yard fixtures; outdoor swimming pools; piers, wharves and docks; beach or diving platforms or appurtenances; retaining walls; walks, roadways and other paved surfaces.
- (4) If personal property abruptly falls down or caves in and such collapse is not the result of collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if
- (a) The collapse was caused by a cause of loss listed in Paragraphs (2)(a) through (2)(f) of this Additional Coverage;
  - (b) The personal property which collapses is inside a building; and
  - (c) The property which collapses is not of a kind listed in Paragraph (3) above, regardless of whether that kind of property is considered to be personal property or real property.
- The coverage stated in this Paragraph (4) does not apply to personal property if marring or scratching is the only damage to that personal property caused by the collapse.
- Collapse of personal property does not mean cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
- (5) This Additional Coverage, Collapse, will not increase the Limits of Insurance provided in this policy.

**SPECIAL PROPERTY COVERAGE FORM****b. Debris Removal**

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

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

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

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

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

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

**c. Equipment Breakdown**

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

Equipment Breakdown Accident means:

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

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

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

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

The following is not Equipment Breakdown Property:

- (a) Any structure, foundation, cabinet, compartment or air supported structure building;
- (b) Any insulating or refractory material;
- (c) Any sewer piping, any underground vessels or piping, any piping forming a part of a sprinkler system, water piping other than boiler feed water piping, boiler condensate return piping, or water piping forming a part of a refrigerating or air conditioning system;
- (d) Any vehicle or any equipment mounted on a vehicle. As used here, vehicle means any machine or apparatus that is used for transportation or moves under its own power. Vehicle includes, but is not limited to, car, truck, bus, trailer, train, aircraft, watercraft, forklift, bulldozer, tractor or harvester. However, any property that is stationary, permanently installed at a "scheduled premises" and that receives electrical power from an external power source will not be considered a vehicle.
- (e) Any equipment manufactured by you for sale.

**(2) Coverage Extensions**

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

**SPECIAL PROPERTY COVERAGE FORM****(a) Hazardous Substances**

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

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

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

**(b) Expediting Expenses**

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

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

**(c) Defense**

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

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

**(d) Supplementary Payments**

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

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

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

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

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

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

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

- (f) If Equipment Breakdown Property requires replacement due to an Equipment Breakdown Accident, we will pay your additional cost to replace it with equipment that is better for the environment, safer or more efficient than the equipment being replaced. However, we will not pay more than 125% of what the cost would have been to repair or replace with property of

**SPECIAL PROPERTY COVERAGE FORM**

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

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

**(3) Additional Condition - Bankruptcy**

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

**(4) Jurisdictional Inspections:**

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

**d. Fire Department Service Charge**

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$25,000 in any one occurrence for your liability for fire department service charges:

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

**e. Fire Extinguisher Recharge**

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

**f. Forgery**

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

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

- (2) If you are sued for refusing to pay any Covered Instrument on the basis that it has been forged or altered, and you have our written consent to defend against the "suit", we will pay for any reasonable expenses that you incur and pay in that defense.

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

- (a) Money orders, including counterfeit money orders, of any United States or Canadian post office, express company or national or state (or Canadian) chartered bank that are not paid upon presentation; and

- (b) Counterfeit United States or Canadian paper currency.

- (4) The most we will pay in any one occurrence, including legal expenses, under this Additional Coverage is \$5,000, unless a higher Limit of Insurance is shown in the Declarations.

**g. Glass Expense**

We will pay for necessary expenses incurred to:

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

This does not include removing or replacing window displays.

**h. Lock and Key Replacement**

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

**i. Money and Securities**

- (1) We will pay for loss of "money" and "securities" used in your business while



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at a bank or savings institution, within your living quarters or the living quarters of your partners or any employee having use and custody of the property, at the "scheduled premises", or in transit between any of these places, resulting directly from:

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

**J. Ordinance or Law**

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

**Undamaged Part**

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

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

**Demolition Cost**

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

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

**Increased Cost of Construction**

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

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

**"Tenants Improvements and Betterment"**

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

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

**(2) Additional Exclusions**

We will not pay under this Additional Coverage for:

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

**SPECIAL PROPERTY COVERAGE FORM**

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

(b) The costs associated with the enforcement of any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants or contaminants", "fungi", wet or dry rot, bacteria or virus.

(c) Loss caused by, resulting from, contributed to or aggravated by earthquake or volcanic eruption.

(d) Loss due to an ordinance or law that:

(i) You were required to comply with before the loss even if the building was undamaged; and

(ii) You failed to comply with.

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

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

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

(i) The amount you actually spend to repair, rebuild or reconstruct the Building, but not for more than the amount it would cost to restore the Building on the same premises; and

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

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

(i) The amount you actually spend to repair, rebuild or reconstruct the Building, but not for more than the amount it would cost to restore the Building on the same premises; and

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

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

(i) The Actual Cash Value of the Building at the time of loss; or

(ii) The Limit of Insurance applicable to the covered Building property stated in Paragraph A.5.j.(1)(a).

**(4) Additional Limitation – Demolition Cost**

We will not pay more than the lesser of:

(a) The amount actually spent to demolish and clear the site of the "scheduled premises"; or

(b) The applicable Demolition Cost Limit of Insurance as stated in Paragraph A.5.j.(1)(b).

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

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

(a) We will not pay:

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- (i) Until the property is actually repaired or replaced, at the same or another premises; and
  - (ii) Unless the repairs or replacements are made as soon as reasonably possible after the physical loss or physical damage, not to exceed two years. We may extend this period in writing during the two years.
- (b) If the Building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay is the lesser of:
- (i) The increased cost of construction at the same premises; or
  - (ii) The applicable Increased Cost of Construction Limit of Insurance stated in Paragraph A.5.j.(1)(c).
- (c) If the ordinance or law requires relocation to another premises, the most we will pay is the lesser of:
- (i) The Increased Cost of Construction at the new premises; or
  - (ii) The applicable Increased Cost of Construction Limit of Insurance stated in Paragraph A.5.j.(1)(c).

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

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

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

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

**l. Preservation of Property**

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

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

**m. Theft Damage to Building**

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

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

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

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

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

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

We will not pay the cost to repair any defect that caused the direct physical loss or physical damage except as provided in paragraph A.5.c., **Equipment Breakdown** of this coverage form. But we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:

- (1) Results in discharge of any substance from an automatic fire protection system; or

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(2) Is directly caused by freezing.

**o. Business Income**

(1) We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration". The suspension must be caused by direct physical loss of or physical damage to property at the "scheduled premises", including personal property in the open (or in a vehicle) within 1,000 feet of the "scheduled premises", caused by or resulting from a Covered Cause of Loss.

(2) With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the "scheduled premises" are located, your "scheduled premises" also means:

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

(3) We will only pay for loss of Business Income that occurs within 12 consecutive months after the date of direct physical loss or physical damage.

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

(4) Business Income means the:

- (a) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no direct physical loss or physical damage had occurred; and
- (b) Continuing normal operating expenses incurred, including payroll.

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

- (a) The partial slowdown or complete cessation of your business activities; or

(b) That part or all of the "scheduled premises" is rendered untenantable as a result of a Covered Cause of Loss if coverage for Business Income applies to the policy.

**p. Extra Expense**

(1) We will pay reasonable and necessary Extra Expense you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or physical damage to property at the "scheduled premises", including personal property in the open (or in a vehicle) within 1,000 feet, caused by or resulting from a Covered Cause of Loss.

(2) With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the "scheduled premises" are located, your "scheduled premises" also means:

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

(3) Extra Expense means expense incurred:

- (a) To avoid or minimize the suspension of business and to continue "operations":
  - (i) At the "scheduled premises"; or
  - (ii) At replacement premises or at temporary locations, including:
    - (aa) Relocation expenses; and
    - (bb) Cost to equip and operate the replacement or temporary location, other than those costs necessary to repair or to replace damaged stock and equipment.
- (b) To minimize the suspension of business if you cannot continue "operations".
- (c) (i) To repair or replace any property; or

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

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

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

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

- (a) The partial slowdown or complete cessation of your business activities; or
- (b) That part or all of the "scheduled premises" is rendered untenantable as a result of a Covered Cause of Loss if coverage for Extra Expense applies to the policy.

**(5) Limitation**

This Extra Expense Coverage does not apply to:

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

**q. Civil Authority**

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

- (a) When access is permitted to your "scheduled premises"; or

- (b) 30 consecutive days after the order of the civil authority.

**r. Extended Business Income**

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

- (a) Begins on the date property is actually repaired, rebuilt or replaced and "operations" are resumed; and

- (b) Ends on the earlier of:

- (i) The date you could restore your "operations" with reasonable speed, to the condition that would have existed if no direct physical loss or damage occurred; or

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

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

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

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

- (b) That a part or all of the "scheduled premises" is rendered untenantable as a result of a Covered Cause of Loss.

**s. Business Income from Dependent Properties**

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

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

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- (2) We will reduce the amount of your Business Income loss, other than Extra Expense, to the extent you can resume "operations", in whole or in part, by using any other available:
- (a) Source of materials; or
  - (b) Outlet for your products.
- (3) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.
- (4) Dependent Property means property owned, leased or operated by others whom you depend on to:
- (a) Deliver materials or services to you or to others for your account. But services do not include:
    - (i) Water, communication, power services or any other utility services; or
    - (ii) Any type of web site, or Internet service.
  - (b) Accept your products or services;
  - (c) Manufacture your products for delivery to your customers under contract for sale; or
  - (d) Attract customers to your business premises.
- The dependent property must be located in the coverage territory of this policy.
- (5) The coverage period for Business Income under this Additional Coverage:
- (a) Begins 72 hours after the time of direct physical loss or physical damage caused by or resulting from a Covered Cause of Loss at the premises of the dependent property; and
  - (b) Ends on the date when the property at the premises of the dependent property should be repaired, rebuilt or replaced with reasonable speed and similar quality.
- (6) The Business Income coverage period, as stated in Paragraph (5), does not include any increased period required due to the enforcement of any ordinance or law that:
- (a) Regulates the construction, use or repair, or requires the tearing down of any property; or
  - (b) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effects "pollutants."
- (7) The definition of Business Income contained in the Business Income Additional Coverage also applies to this Business Income From Dependent Properties Additional Coverage.
- t. Tenant Glass**
- This Additional Coverage applies only to premises where you are a tenant and are responsible in the lease for such damage. We will cover loss to glass, which is in your care, custody or control and for which the lease holds you responsible. The glass must be part of a building described in the Declarations or at a location that would be included in Coverage Extension b. Newly Acquired or Constructed Property. The most that we will pay in any one occurrence for each location under this Additional Coverage is \$25,000.
- u. Leasehold Improvements**
- If your lease is cancelled in accordance with a valid lease provision as the direct result of a Covered Cause of Loss to property at the location in which you are a tenant, and you cannot legally remove "Tenant Improvements and Betterments", we will extend Business Personal Property coverage to apply to the unamortized value of "Tenants Improvement and Betterment" that remain and that you were forced to abandon. The most we will pay in any one occurrence for loss under this Additional Coverage is \$25,000.
- v. Lease Assessment**
- Your Business Personal Property is extended to apply to your share of any assessment charged to all tenants by the building owner as a result of direct physical damage caused by or resulting from a Covered Cause of Loss to building property you occupy as agreed to in your written lease agreement. We will pay no more than \$2,500 in any one occurrence for this Additional Coverage.

**SPECIAL PROPERTY COVERAGE FORM****6. Coverage Extensions**

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

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

**a. Accounts Receivable**

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

We will pay for:

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

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

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

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

**(3) Additional Exclusions**

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

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

This exclusion does not apply to a carrier for hire.

- (b) Alteration, falsification, concealment or destruction of records of accounts receivable done to conceal the wrongful giving, taking or withholding of "money," "securities," or other property.

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

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

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

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

- (f) Unauthorized instructions to transfer property to any person or to any place.

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

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

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

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

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

**SPECIAL PROPERTY COVERAGE FORM**

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

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

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

**c. Data and Software**

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

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

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

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

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

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

**e. Newly Acquired or Constructed Property**

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

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

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

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

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

This extension does not apply to:

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

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

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

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

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



**SPECIAL PROPERTY COVERAGE FORM**

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

- (a) This policy expires;
- (b) 180 days after you acquire or begin to construct the property, or
- (c) You report values to us.

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

**f. Outdoor Property**

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

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

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

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

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

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

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

**g. Personal Effects**

You may extend the insurance that applies to Business Personal Property to apply to personal effects owned by you, your officers, your partners, "managers", "members", or your employees.

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

**h. Property Off-Premises**

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

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

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

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

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

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

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

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

**B. EXCLUSIONS**

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

**a. Earth Movement**

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

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

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

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

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

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

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

**b. Governmental Action**

Seizure or destruction of property by order of governmental authority.

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

**c. Nuclear Hazard**

Nuclear reaction or radiation, or radioactive contamination however caused.

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

**d. Power Failure**

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

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

**e. War and Military Action**

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

**f. Water**

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

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- (2) Mudslide or mud flow;
- (3) Water that backs up from a sewer or drain; or
- (4) Water under the ground surface pressing on, or flowing or seeping through:
- Foundations, walls, floors or paved surfaces;
  - Basements, whether paved or not, or
  - Doors, windows or other openings.
- But if loss or damage by fire, explosion or sprinkler leakage results, we will pay for that resulting physical loss or physical damage.
- (5) Water damage caused by or resulting from earthquake or volcanic eruption:
- Earthquake means a shaking or trembling of the earth's crust, caused by underground tectonic forces resulting in breaking, shifting, rising, settling, sinking or lateral movement or other movement;
  - Volcanic eruption means the eruption, explosion or effusion of a volcano.
- g. Neglect**  
Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.
2. We will not pay for physical loss or physical damage caused by or resulting from:
- Consequential Losses:** Delay, loss of use or loss of market.
  - Smoke, Vapor, Gas:** Smoke, vapor or gas from agricultural smudging or industrial operations.
  - Miscellaneous Types of Loss:**
    - Wear and tear;
    - Rust, corrosion, fungus, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
    - Smog;
    - Settling, cracking, shrinking or expansion;
    - Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents, mold, spore or other animals;
- (6) The following causes of loss to personal property:
- Dampness or dryness of atmosphere;
  - Changes in or extremes of temperature; or
  - Marring or scratching.
- But if physical loss or physical damage by the "specified causes of loss", building glass breakage or Equipment Breakdown Accident results, we will pay for that resulting physical loss or physical damage.
- d. Frozen Plumbing:** Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:
- You do your best to maintain heat in the building or structure; or
  - You drain the equipment and shut off the supply if the heat is not maintained.
- e. Dishonesty:** Dishonest or criminal act by you, any of your partners, "members", officers, "managers", employees, directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:
- Acting alone or in collusion with others; or
  - Whether or not occurring during the hours of employment.
- This exclusion does not apply to acts of destruction by your employees; but theft by employees is not covered.
- f. False Pretense:** Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.
- g. Exposed Property:** Rain, snow, ice or sleet to personal property in the open, except as provided in the Coverage Extension for Outdoor Property.
- h. Collapse:** Collapse, except as provided in the Additional Coverage for Collapse. But if loss or damage by a Covered Cause of Loss results at the "scheduled premises", we will pay for that resulting loss or damage.
- i. Pollution:** We will not pay for loss or damage caused by or resulting from the discharge, dispersal, seepage, migration, release or escape of "pollutants and

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

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

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

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

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

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

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

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

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

b. Any other consequential loss.

5. **Equipment Breakdown Exclusion**

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

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

C. **LIMITS OF INSURANCE**

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

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

3. The limits applicable to:

- a. Coverage Extensions; and
- b. The following Additional Coverages:
  - (1) Accounts Receivable,
  - (2) Fire Department Service Charges,
  - (3) Fire Extinguisher Recharge, and
  - (4) "Pollutants and Contaminants" Clean Up and Removal

are in addition to the Limits of Insurance.

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

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

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

5. **Building Limit - Automatic Increase**

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

b. The amount of increase will be:

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

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

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

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

The amount of increase is:

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

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

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

**D. DEDUCTIBLES**

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

- a. Building Glass
  - b. Glass Expense
  - c. Tenant Glass
4. Unless a separate deductible is shown in the Declarations, the deductible applicable to the following Additional Coverages or Coverage Extensions is \$250, whether the coverage is provided under this coverage form, provided on a separate coverage form or the coverage is provided in a form that includes a package of coverages, such as a Stretch endorsement:
    - a. Accounts Receivable;
    - b. Fine Arts
    - c. Outdoor Signs; and
    - d. "Valuable Papers and Records";
  5. Unless a separate deductible is shown in the Declarations, the deductible applicable to the following Additional Coverages or Coverage Extensions is \$100, whether the coverage is provided under this coverage form, provided on a separate coverage form or the coverage is provided in a form that includes a package of coverages, such as a Stretch endorsement:
    - a. Employee Dishonesty; and
    - b. Temperature Change.
  6. No deductible applies to the following Coverage Extensions and Additional Coverages:
    - a. Fire Extinguisher Recharge;
    - b. Preservation of Property;
    - c. Fire Department Service Charge;
    - d. Business Income, Extra Expense, Civil Authority and Extended Business Income;
    - e. Arson Reward; and
    - f. Lock and Key Replacement
  7. The Deductible applicable to the following Additional Coverages is the policy deductible or the deductible shown in the Declarations for the following coverage:
    - a. Equipment Breakdown;
    - b. Ordinance or Law Coverage; and
    - c. Leasehold Improvements.
  8. Each deductible applicable to this policy shall be applied separately but only to the coverage specified, and the total deductible for all losses in any one occurrence shall be the highest deductible amount that applies to the occurrence.

**E. PROPERTY LOSS CONDITIONS**

1. **Abandonment**  
There can be no abandonment of any property to us.

**SPECIAL PROPERTY COVERAGE FORM****2. Appraisal**

If we and you disagree on the amount of loss, either may make written demand for an appraisal of the loss. In that event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of loss.

If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

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

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

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

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

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

This will not increase the Limits of Insurance.

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

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

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

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

**4. Legal Action Against Us**

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

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

**5. Loss Payment**

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

a. At our option we will either:

- (1) Pay the value of physically lost or physically damaged property, as described in paragraph d. below;
- (2) Pay the cost of repairing or replacing the physically lost or physically damaged property, plus any reduction in value of repaired items;
- (3) Take all or any part of the property at an agreed or appraised value; or
- (4) Repair, rebuild or replace the property with other property of like kind and quality.

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

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

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

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

(a) You may make a claim for physical loss or physical damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have physical loss or physical damage settled on an actual cash value basis, you may still make a claim on a

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replacement cost basis if you notify us of your intent to do so within 180 days after the physical loss or physical damage.

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

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

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

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

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

(i) The cost to replace, on the same premises, the physically lost or physically damaged property with other property of comparable material and quality and which is used for the same purpose; or

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

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

(3) The following property at actual cash value:

(a) Manuscripts;

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

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

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

(5) "Tenants' Improvements and Betterments" at:

(a) Replacement cost if you make repairs promptly.

(b) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:

(i) Multiply the original cost by the number of days from the physical loss or physical damage to the expiration of the lease; and

(ii) Divide the amount determined in (i) above by the number of days from the installation of improvements to the expiration of the lease.

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

(c) Nothing, if others pay for repairs or replacement.

(6) "Valuable Papers and Records", at the cost of:

(a) Blank materials for reproducing the records; and

(b) Labor to transcribe or copy the records.

(7) "Money" and "Securities":

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

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

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

(a) Distilled spirits;

(b) Wines;

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

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

    - (1) The salvage value that remains of any property bought for temporary use during the Period of Restoration, once business operations are resumed; and
    - (2) Any Extra Expense that is paid for by other insurance.
- 6. Recovered Property**
- If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, you may retain the property. But then you must return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limits of Insurance.
- 7. Resumption of Operations**
- In the event of physical loss or physical damage at the "scheduled premises" you must resume all or part of your "operations" as quickly as possible.
- We will reduce the amount of your:
- a. Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the "scheduled premises" or elsewhere.
  - b. Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.
- 8. Vacancy**
- a. **Description of Terms**
    - (1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in Paragraphs.



**SPECIAL PROPERTY COVERAGE FORM**

(a) and (b) below:

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

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

- (i) Rented to a lessee or sub-lessee and used by the lessee or sub-lessee to conduct its customary operations; and/or
- (ii) Used by the building owner to conduct customary operations.

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

**b. Vacancy Provisions**

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

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

- (a) Vandalism;
- (b) Sprinkler leakage, unless you had protected the system against freezing;
- (c) Building glass breakage;
- (d) Water damage;
- (e) Theft; or
- (f) Attempted theft.

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

**F. PROPERTY GENERAL CONDITIONS**

**1. Control of Property**

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

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

**2. Mortgage Holders**

- a. The term mortgage holder includes trustee.
- b. We will pay for covered physical loss of or physical damage to buildings or structures to each mortgage holder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgage holder has the right to receive loss payment even if the mortgage holder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the mortgage holder will still have the right to receive loss payment if the mortgage holder:

- (1) Pays any premium due under this policy at our request if you have failed to do so;
- (2) Submits a signed, sworn statement of loss within 60 days after receiving notice from us of your failure to do so; and
- (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgage holder.

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

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

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

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

**SPECIAL PROPERTY COVERAGE FORM**

- f. If we cancel this policy, we will give written notice to the mortgage holder at least:
- (1) 10 days before the effective date of cancellation if we cancel for your non payment of premium; or
  - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- g. If we elect not to renew this policy, we will give written notice to the mortgage holder at least 10 days before the expiration date of this policy.
- 3. No Benefit to Bailee**  
No person or organization, other than you, having custody of Covered Property will benefit from this insurance.
- 4. Policy Period, Coverage Territory**  
Under this form:
- a. We cover physical loss or physical damage commencing:
    - (1) During the policy period shown in the Declarations; and
    - (2) Within the coverage territory or, with respect to property in transit, while it is between points in the coverage territory.

But we do not cover physical loss or physical damage that is also covered by a preceding policy.
  - b. The coverage territory is:
    - (1) The United States of America (including its territories and possessions);
    - (2) Puerto Rico; and
    - (3) Canada.
- 5. Additional Conditions**  
The following conditions apply to paragraph A.5.u., Forgery Additional Coverage:
- a. We will treat mechanically reproduced facsimile signatures the same as handwritten signatures.
  - b. You must include with your proof of loss any instrument involved in that loss, or, if that is not possible, an affidavit setting forth the amount and cause of loss.
  - c. The Coverage Territory is revised to cover loss you sustain anywhere in the world.
- G. PROPERTY DEFINITIONS**
1. "Computer" means a programmable electronic device that can store, retrieve and process "data".
  2. "Computer Equipment" means "computers", "peripheral devices", "media", and manuals that are purchased to be used in conjunction with hardware and "software".
  3. "Counterfeit" means an imitation of an actual valid original which is intended to deceive and to be taken as the original.
  4. "Data" means information or facts stored in a "computer's" memory, on "software" or on "media".
  5. "Finished Stock" means stock you have manufactured.  
"Finished Stock" does not include stock you have manufactured that is held for sale on the premises of any retail outlet insured under this policy.
  6. "Manager" means a person serving in a directorial capacity for a limited liability company.
  7. "Media" means the material used solely with the "computer" or "peripheral device" upon which "software" or "data" is stored, such as tapes, CD-ROMs or disks.
  8. "Member" means an owner of a limited liability company represented by its membership interest, who also may serve as a "manager".
  9. "Messenger" means you, any any of your partners or any employee while having care and custody of the property outside your premises.
  10. "Money" means:
    - a. Currency, coins and bank notes whether or not in current use; and
    - b. Travelers checks, registered checks and money orders held for sale to the public.
  11. "Operations" means your business activities occurring at the "scheduled premises" and tenantability of the "scheduled premises".
  12. "Period of Restoration" means the period of time that:
    - a. Begins with the date of direct physical loss or physical damage caused by or resulting from a Covered Cause of Loss at the "scheduled premises", and
    - b. Ends on the date when:
      - (1) The property at the "scheduled premises" should be repaired, rebuilt or replaced with reasonable speed and similar quality;
      - (2) The date when your business is resumed at a new, permanent location.