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SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

ASPEN LODGING GROUP LLC; ASPEN
TENNESSEE, LLC; ASPEN MALLORY
HOLDINGS, LLC; DELUXE RESTAURANT,
LLC; ASPEN IMPERIAL, LLC; VANCE
HOTEL ASSOCIATES, LLC; KS TACOMA
HOTEL, LLC; ROOSEVELT HOTEL OWNER
LLC; THEODORE F&B, LLC; PORTLAND
GOVERNOR HOTEL ACQUISITION, LLC;
PORTLAND HOTEL, LLC; DOSSIER F&B,
LLC; HOTEL AMBASSADOR NOLA, LLC;
VILLA PALM SPRINGS OWNER, LLC; and
930 SANDY BAR, LLC,

Plaintiffs,

v.

AFFILIATED FM INSURANCE COMPANY,
Defendant.

CASE NO. _____

COMPLAINT FOR
(1) DECLARATORY RELIEF,
(2) BREACH OF CONTRACT,
(3) INSURANCE BAD FAITH,
(4) VIOLATION OF THE INSURANCE
FAIR CONDUCT ACT,
(5) VIOLATION OF THE CONSUMER
PROTECTION ACT

DEMAND FOR JURY TRIAL

Plaintiffs Aspen Lodging Group LLC, Aspen Tennessee, LLC, Aspen Mallory Holdings,
LLC, deLuxe Restaurant, LLC, Aspen Imperial, LLC, Vance Hotel Associates, LLC, KS Ta-
coma Hotel, LLC, Roosevelt Hotel Owner LLC, Theodore F&B, LLC, Portland Governor Hotel
Acquisition, LLC, Portland Hotel, LLC, Dossier F&B, LLC, Hotel Ambassador Nola, LLC,

1 Villa Palm Springs Owner, LLC, and 930 Sandy Bar, LLC (collectively, “Aspen”) bring this ac-
2 tion against Defendant Affiliated FM Insurance Company (“AFM”).

3 I. NATURE OF THE CASE

4 1. This an insurance-coverage action in which AFM has denied coverage for lost profits
5 caused by the Covid-19 pandemic and the closure of Aspen’s hotels, notwithstanding AFM’s ex-
6 plicit grant of coverage for property damage caused by communicable disease.

7 II. INTRODUCTION

8 2. Aspen owns and manages several hotels under the Provenance Hotels brand in Wash-
9 ington, Oregon, California, Tennessee, and Louisiana.

10 3. Aspen purchased a property policy from AFM that included coverage for “business in-
11 terruption” damages caused by governmental orders that were issued as a result of damages “of
12 the type insured” to nearby property, which specifically included damages caused by the Covid-
13 19 pandemic or other communicable diseases.

14 4. As a direct result of damages caused by the Covid-19 pandemic, governmental orders
15 issued in March 2020 shut down, restricted, and otherwise prohibited access to all or part of As-
16 pen’s hotels in order to stem the spread of the Covid-19 pandemic, which caused a catastrophic
17 interruption of Aspen’s business and associated lost revenue from hotel guests, patrons, and visi-
18 tors.

19 5. Under AFM’s special “Additional Coverage” for “Communicable Disease – Property
20 Damage,” the presence of persons with Covid-19, including the spread of the SARS-CoV-2 virus
21 onto property from respiration, coughing, sneezing, and even normal conversation, is a kind of
22 damage “of the type insured” under AFM’s policy.

23 6. Despite this explicit grant of coverage for property damage caused by communicable
24 disease, AFM has refused to indemnify Aspen for its lost profits and other business-interruption
25 damages caused by the Covid-19 disease and the associated governmental orders devastating As-
26 pen’s business.

7. As a result of AFM's bad-faith delays and denial of coverage, Aspen has suffered damages, and will continue to suffer damages, sought by Aspen as described below.

III. PARTIES

8. Plaintiff Aspen Lodging Group LLC is a Delaware limited liability company and the property manager for the Provenance Hotel group of hotels.

9. Plaintiff Aspen Tennessee, LLC, dba Hotel Preston, is a Delaware limited liability company.

10. Plaintiff Aspen Mallory Holdings, LLC, dba Hotel deLuxe, is a Delaware limited liability company.

11. Plaintiff deLuxe Restaurant, LLC, dba Gracie's Restaurant, is an Oregon limited liability company.

12. Plaintiff Aspen Imperial, LLC, dba Hotel Lucia, is a Delaware limited liability company.

13. Plaintiff Vance Hotel Associates, LLC, dba Hotel Max, is a Delaware limited liability company.

14. Plaintiff KS Tacoma Hotel, LLC, dba Hotel Murano, is a Delaware limited liability company.

15. Plaintiff Roosevelt Hotel Owner LLC, dba Hotel Theodore, is a Delaware limited liability company.

16. Plaintiff Theodore F&B, LLC, dba Rider Restaurant, is a Washington limited liability company.

17. Plaintiff Portland Governor Hotel Acquisition, LLC, dba Sentinel Hotel, is a Delaware limited liability company.

18. Plaintiff Portland Hotel, LLC, dba Hotel Dossier, is a Delaware limited liability company.

19. Plaintiff Dossier F&B, LLC, dba Rosa Rosa Restaurant, is an Oregon limited liability company.

20. Plaintiff Hotel Ambassador Nola, LLC, dba The Old 77 Hotel & Chandlery, is a Delaware limited liability company.

21. Plaintiff Villa Palm Springs Owner, LLC, dba Villa Royale Hotel, is a Delaware limited liability company.

22. 930 Sandy Bar, LLC, dba Century Bar, is a Delaware limited liability company.

23. Defendant Affiliated FM Insurance Company (“Affiliated”) is an insurance company, on information and belief, with its principal place of business and state of domicile in Rhode Island.

IV. JURISDICTION AND VENUE

24. This Court has jurisdiction under RCW 2.08.010.

25. Venue is proper in this Court under RCW 48.05.220.

V. GENERAL ALLEGATIONS

26. Aspen owns and operates several hotels and restaurants under the Provenance Hotels brand, including locations in Washington, Oregon, California, Tennessee, and Louisiana.

27. To protect its interests in these hotels, Aspen had purchased a property policy from AFM (the “AFM Policy”), which included protection against the risk of “business interruption” losses caused by the closure of these hotels and the associated loss of income. Ex. 1.

28. Aspen intended and expected AFM’s coverage to provide protection against the risk of a crippling pandemic affecting travel and tourism at its hotels, including the coverage for precisely this type of damage under two “Communicable Disease” provisions and the related coverage for “Civil or Military Authority” orders responding to this risk of pandemic.

29. Covid-19 is a communicable disease caused by the SARS-CoV-2 virus, which was originally known as the “novel coronavirus” when Covid-19 first began being diagnosed in humans in or around December 2019.

30. According to the World Health Organization, “People can catch COVID-19 from others who have the virus. The disease spreads primarily from person to person through small droplets from the nose or mouth, which are expelled when a person with COVID-19 coughs, sneezes, or

1 speaks. These droplets are relatively heavy, do not travel far and quickly sink to the ground. Peo-
2 ple can catch COVID-19 if they breathe in these droplets from a person infected with the virus.
3 This is why it is important to stay at least 1 meter away from others. These droplets can land on
4 objects and surfaces around the person such as tables, doorknobs and handrails. People can be-
5 come infected by touching these objects or surfaces, then touching their eyes, nose or mouth.”¹

6 31. The WHO declared on March 11, 2020 that the outbreak of Covid-19 was a “pan-
7 demic” affecting countries across the entire globe. Shortly after this declaration, civil authorities
8 around the country issued “stay at home” and “shelter in place” orders in March 2020, which in-
9 cluded orders in Washington, Oregon, California, Tennessee, and Louisiana prohibiting access to
10 Aspen’s hotels and restaurants, causing them to close and resulting in catastrophic damages in
11 lost revenue from the hotels’ guests and patrons.

12 32. The nationwide response from insurers like AFM was immediate and unmistakable,
13 signaling that there would be no coverage for damages caused by the Covid-19 pandemic, which
14 the insurers widely disputed could be a type of “property damage,” but without reference to any
15 policy language or caselaw to the contrary.

16 33. On March 25, 2020, Aspen sent ten notice-of-claim letters to AFM to demand coverage
17 for Aspen’s lost profits at ten hotels that were forced to close because of the orders issued by var-
18 ious civil authorities in Washington, Oregon, California, Louisiana, and Tennessee.

19 34. Each of these letters identified the relevant governmental closure, quarantine, and stay-
20 at-home orders responding to the Covid-19 pandemic, and each letter specified locations within
21 five miles of each hotel that were known to have the presence of a person with the Covid-19 dis-
22 ease.

23 35. Because these two conditions were satisfied, Aspen demanded coverage under AFM’s
24 “Civil or Military Authority” coverage extension for each hotel:

¹ *Q&A on Coronaviruses (COVID-19)* at <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/question-and-answers-hub/q-a-detail/q-a-coronaviruses> (last visited May 21, 2020).

1 **2. Civil or Military Authority**

2 This Policy covers the Business Interruption Coverage loss incurred by the In-
3 sured during the Period of Liability if an order of civil or military authority pro-
4 hibits access to a location provided such order is the direct result of physical dam-
5 age of the type insured at a location or within five (5) statute miles of it.

6 Item B. 3. of Property Excluded does not apply to this Business Interruption Cov-
7 erage Extension.

8 The Period of Liability for this Business Interruption Coverage Extension will be:

- 9 a) The period of time starting at the time of such order of civil or military au-
10 thority, but not to exceed the number of consecutive days shown in the Dec-
11 larations section of this Policy.

12 (Ex. 1 at 53)

13 36. Because AFM’s policy includes an “Additional Coverage” for “Communicable Disease
14 – Property Damage,” damages caused by Covid-19 are “of the type insured” under AFM’s policy
15 to trigger the “Civil or Military Authority” coverage for business-income losses. *Id.* at 36.

16 37. The presence of a person with Covid-19, and the concomitant spread of the droplets and
17 other bodily fluids with the SARS-CoV-2 virus on surfaces near that person, constitutes covered
18 property damage under the AFM Policy.

19 38. On April 1, 2020, AFM sent an email to acknowledge receipt of the notice-of-claim let-
20 ters and to assign Richard Mayne, working out of AFM’s offices in Bellevue, Washington, as the
21 adjuster for Aspen’s claims, but AFM did not request any information about Aspen’s losses or
22 even attempt to address AFM’s coverage for the claims. AFM followed this email with another
23 on April 8, 2020 to suggest organizing all of the claims under one “ClaimID,” but again failing
24 to acknowledge coverage, pay any portion of Aspen’s losses, or request any information from
25 Aspen about those losses.

26 39. On April 10, 2020, AFM responded to Aspen’s request to assign separate “ClaimID”
27 numbers for each occurrence at the several hotels, and AFM requested information about the ho-
28 tels at issue in the business-income losses related to the claim by Aspen as the property manager.

1 Over the next few days, AFM and Aspen exchanged emails to answer this question, but AFM
2 still failed to respond with an acknowledgment of coverage or an offer of any payment.

3 40. On April 17, 2020, the delays continued. Aspen sent a letter on April 17, 2020 to
4 “acknowledge receipt of notification of business interruption loss” from Aspen and reciting the
5 parties’ emails and letters to date. But this letter still failed to accept responsibility for Aspen’s
6 losses or even ask questions about the scope of those losses to enable timely payment. Rather,
7 the letter simply told Aspen what it plainly already knew about the parties’ communications and
8 denying that its response “is an admission or denial of coverage.” It was really nothing at all.

9 41. Aspen’s broker responded to this April 17 letter from AFM on April 21, 2020, advising
10 AFM that Aspen’s total losses exceeded \$7 million so far, offering any information or documen-
11 tation that is “deemed necessary by AFM” showing these losses, and asking for an “advance par-
12 tial claim payment” of \$2 million to alleviate the obvious economic hardship suffered by Aspen
13 since the notice letters had been sent nearly a month earlier.

14 42. But no payment, or even a promise of payment, was to come. Rather, on April 27,
15 2020, AFM responded with 14 nearly identical letters, each requesting Aspen to “please identify
16 the cause of the loss; the physical loss or damage that occurred; and when the loss or damage oc-
17 curred (or incepted if the loss is ongoing).” All of this information, of course, was included in
18 Aspen’s March 25 notice-of-claim letters sent over a month before, which plainly identified the
19 relevant orders from civil authorities in response to the Covid-19 pandemic and instances of
20 Covid-19 “within five (5) statute miles” of each hotel. AFM’s request for information it plainly
21 had for a month constitutes a bad-faith delay in adjusting and paying Aspen’s claims.

22 43. Moreover, the bulk of AFM’s response letters addressed coverage under policy provi-
23 sions that Aspen was not even invoking in its notice-of-claim letters. AFM addresses coverage
24 under the “Communicable Disease – Property Damage” and “Communicable Disease – Business
25 Interruption” coverage parts, which require the presence of Covid-19 disease at an insured hotel
26 to trigger coverage. In focusing on these coverages — rather than the “Civil or Military Author-
27 ity” coverage that was actually and explicitly raised in Aspen’s letters — AFM invites a red

1 herring that AFM knows Aspen does not rely on, observing that “you have not reported any con-
2 firmed case” at the hotel. This bit of misdirection constitutes additional bad-faith delay in
3 squarely addressing and responding to the claims that AFM well knows Aspen is actually, pres-
4 ently making. As with the other letters from AFM, all of the April 27 letters conclude with the
5 admonition that neither “this letter nor our investigation is an admission or denial of liability.”
6 That is, again Aspen was left with no answer but more delay, and no payment for the crippling
7 liability suffered by Aspen and its shuttered hotels since Aspen’s claims were made a month ear-
8 lier.

9 44. In addition to these April 27 letters, AFM responded by email to Aspen’s broker in an
10 April 27 email, rejecting the broker’s April 17, 2020 request for a \$2 million advance payment,
11 asserting that “an advance payment of the magnitude you suggest, prior to an affirmative ac-
12 ceptance of a covered loss under the terms and conditions of the policy is not possible.” But
13 AFM failed to offer any payment, of any “magnitude” at all, choosing instead to continue stone-
14 walling without even an acknowledgment of coverage.

15 45. Faced with AFM’s continued intransigence, on May 4, 2020 Aspen mailed its notice of
16 intent to file claims under Washington’s Insurance Fair Conduct Act.

17 46. On May 11, 2020, Aspen notified AFM that new governmental orders had triggered ad-
18 ditional 30-day periods of coverage. Aspen reserves the right to amend this complaint to allege
19 the right to recover for additional 30-day periods of coverage under the “Civil or Military Au-
20 thority” provision because of future orders or amendments triggering this coverage, including
21 any such orders made in response to expected and feared resurgences of Covid-19 in areas of the
22 country “reopening” since the original closure orders in March 2020.

23 47. AFM responded to Aspen’s April 28 and May 11 letters in a series of letters on May
24 22, 2020, which still failed to acknowledge or pay for any of Aspen’s losses.

25 48. AFM did not respond to Aspen’s May 4 IFCA-notice letter until May 26, 2020, the eve
26 of AFM’s deadline to pay without being subject to claims under IFCA, which still failed to
27 acknowledge or pay for any of Aspen’s losses.

49. AFM's failure to timely pay its coverage obligations has damaged Aspen not only for the amount of owed insurance coverage, but also for consequential damages caused by AFM's breaches and delays, including notices of loan defaults and the permanent loss of skilled and trusted employees.

VI. FIRST CAUSE OF ACTION

DECLARATORY JUDGMENT

50. Aspen realleges paragraphs 1-49 as though fully set forth herein.

51. Despite AFM’s obligation to pay for Aspen’s business-interruption losses, AFM denied coverage to Aspen, refusing both to acknowledge coverage and to properly investigate and adjust Aspen’s insurance claim.

52. Accordingly, an actual and justifiable controversy exists between the parties with respect to coverage under the AFM Policy. Aspen therefore requests a declaration and an adjudication of the rights, duties, and liabilities of the parties regarding Aspen's claims for insurance coverage under the AFM Policy.

53. Aspen seeks a determination by this Court that: (1) AFM is liable for the business-interruption losses suffered by Aspen Lodging Group LLC and each of the Provenance Hotels caused by the Covid-19 pandemic and the associated civil-authority orders; (2) AFM breached its duties under the AFM Policy and, in particular, the “Civil or Military Authority” coverage part of the AFM Policy; (3) AFM’s obligations extend, as appropriate to the applicable civil orders causing business interruption at each of the Provenance Hotels, for all or part of additional 30-day periods; (4) Other than the application of these 30-day periods, no other limitation or exclusion applies to any of Aspen’s claims or damages; (5) AFM must reimburse Aspen for any attorney fees and expenses incurred in this matter; and (6) As a result of AFM’s bad-faith denial of coverage, AFM is estopped from asserting coverage defenses.

VII. SECOND CAUSE OF ACTION

BREACH OF CONTRACT

54. Aspen realleges paragraphs 1-49 as though fully set forth herein.

1 55. AFM failed to fully accept, acknowledge, and undertake its contractual duties and obli-
2 gations to Aspen under the AFM Policy.

3 56. AFM breached its contractual obligations under the AFM Policy by failing to
4 acknowledge AFM's obligation to pay Aspen's business-interruption claim and to indemnify As-
5 pen for these losses.

6 57. Aspen has performed all of its obligations and conditions precedent under the AFM
7 Policy, except any that were waived or excused.

8 58. As a direct and proximate result of AFM's breaches of the AFM Policy, Aspen has
9 been deprived of the benefit of insurance coverage provided under the AFM Policy and has suf-
10 fered damages in amounts to be proven at trial. These damages include prejudgment interest on
11 the damages and Aspen's attorney fees and costs incurred in prosecuting this action.

12 VIII. THIRD CAUSE OF ACTION

13 INSURANCE BAD FAITH

14 59. Aspen realleges paragraphs 1-49 as though fully set forth herein.

15 60. AFM's acts and omissions violated its obligation to deal with Aspen in good faith.

16 61. AFM's act and omissions were negligent in failing to adequately investigate Aspen's
17 coverage claims, in failing to acknowledge AFM's coverage obligations under the AFM Policy,
18 and in failing to indemnify Aspen's business-interruption damages.

19 62. As a consequence of AFM's bad-faith conduct, AFM is estopped from asserting any
20 policy defenses to Aspen's claims.

21 63. As a result of AFM bad faith and negligence, Aspen has suffered, and continues to suf-
22 fer, damages in an amount to be proven at trial.

23 IX. FOURTH CAUSE OF ACTION

24 INSURANCE FAIR CONDUCT ACT – RCW 48.30.015

25 64. Aspen realleges paragraphs 1-49 as though fully set forth herein.

1 65. Under RCW 48.30.015, Aspen provided written notice of its Insurance Fair Conduct
2 Act claim to AFM and to the Washington State Office of the Insurance Commissioner more than
3 20 days before filing this action.

4 66. AFM's acts and omissions violated the Insurance Fair Conduct Act, RCW 48.30.015.

5 67. AFM's serial delays and obfuscations establish that it has unreasonably denied Aspen's
6 claim for coverage and unreasonably denied payment of benefits to Aspen.

7 68. AFM's unreasonable and bad-faith delays subject AFM to additional liability for As-
8 pen's attorney fees and other costs under RCW 48.30.015(3) and for treble damages for violat-
9 ing, without limitation, the following provisions:

- 10 • WAC 284-30-330(2) – Failing to acknowledge and act reasonably promptly upon
11 communications with respect to claims arising under insurance policies.
- 12 • WAC 284-30-330(3) – Failing to adopt and implement reasonable standards for the
13 prompt investigation of claims arising under insurance policies.
- 14 • WAC 284-30-330(4) – Refusing to pay claims without conducting a reasonable in-
15 vestigation.
- 16 • WAC 284-30-330(5) – Failing to affirm or deny coverage of claims within a rea-
17 sonable time after fully completed proof of loss documentation has been submitted.
- 18 • WAC 284-30-330(13) – Failing to promptly provide a reasonable explanation of the
19 basis in the insurance policy in relation to the facts or applicable law for denial of a
20 claim or for the offer of a compromise settlement.
- 21 • WAC 284-30-350(1) – No insurer shall fail to fully disclose to first party claimants
22 all pertinent benefits, coverages or other provisions of an insurance policy or insur-
23 ance contract under which a claim is presented.
- 24 • WAC 284-30-360(3) – For all other pertinent communications from a claimant rea-
25 sonably suggesting that a response is expected, an appropriate reply must be pro-
26 vided within ten working days for individual insurance policies, or fifteen working
27 days with respect to communications arising under group insurance contracts.

- WAC 284-30-370 – Every insurer must complete its investigation of a claim within thirty days after notification of claim, unless the investigation cannot reasonably be completed within that time.
- WAC 284-30-380(1) – Within fifteen working days after receipt by the insurer of fully completed and executed proofs of loss, the insurer must notify the first party claimant whether the claim has been accepted or denied.

69. As a result of AFM's acts and omissions, Aspen has suffered, and continues to suffer, damages in an amount to be proven at trial.

X. FIFTH CAUSE OF ACTION

WASHINGTON CONSUMER PROTECTION ACT – RCW CH. 19.86

70. Aspen realleges paragraphs 1-49 as though fully set forth herein.

71. AFM's acts and omissions were unfair and/or deceptive.

72. AFM's acts and omissions occurred in trade or commerce.

73. AFM's acts and omissions impact the public interest.

74. AFM's acts and omissions caused damage to Aspen.

75. AFM's acts and omissions violated the Washington State Consumer Protection Act, RCW 19.86 et seq.

76. AFM's acts and omissions are per se violations of the Washington State Consumer Protection Act, RCW 19.86 et seq.

77. As a result of AFM's violations of the CPA, Aspen suffered, and continues to suffer, damages in an amount to be proven at trial.

PRAYER FOR RELIEF

Wherefore, Aspen seeks the following relief:

1. Entry of an Order of Declaratory Judgment providing the relief requested in paragraph 53;
2. Entry of judgment in the full amount of Aspen's claims for breach of contract, in an amount to be determined at trial;

1 3. Entry of judgment in the full amount of Aspen's damages for the tort of bad faith, in an
2 amount to be determined at trial;

3 4. Entry of judgment, under the Insurance Fair Conduct Act, in an amount equal to three
4 times the actual damages sustained by Aspen as a result of AFM's unreasonable denial of cover-
5 age;

6 5. Entry of a judgment in the full amount of Aspen's actual damages for violation of the
7 Washington Consumer Protection Act and entry of a judgment of treble damages for each viola-
8 tion of the Act;

9 6. Entry of a judgment for prejudgment interest;

10 7. Entry of judgment for Aspen's attorney fees and costs pursuant to the rule established
11 in *Olympic Steamship*, and under RCW 48.30.015(3) and RCW 19.86.090; and

12 8. For such further relief as this Court deems just and equitable.

13 Dated: May 28, 2020

s/ James T. McDermott

James T. McDermott, WSBA 30883

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101 SW Main St., Ste. 1100

Portland, OR 97204

Tel: 503.228.2525

Attorneys for Plaintiff

EXHIBIT 1



Member of the FM Global Group

270 Central Ave
Johnston, RI 02919
www.affiliatedfm.com

Thank you for placing your property insurance with AFM. We believe insurance should be straightforward and certain. That is why our proVision® 4100 policy is easy to read and navigate, while providing you broad coverage.

In addition to providing property insurance, AFM would like to help you protect your business and achieve your goals. In partnering with AFM, you have the strength of FM Global Group behind you, including a strong balance sheet and access to our market-leading loss prevention engineering products and services that are based on more than 180 years of experience as a property specialist. We are eager to work with you and your broker to choose how to best identify, prioritize and reduce future loss in a way that makes practical and affordable sense.

Our engineering services, combined with the comprehensive coverage of our proVision 4100, will give you peace of mind and allow you to focus on what matters most—making your business thrive. We are committed to maintaining a long-term, mutually beneficial relationship with you. And, it is our hope that you will take advantage of the many tools and resources we offer our clients, such as online training, onsite policy workshops and access to AFM Online, our powerful extranet that includes policy documents and data-driven risk management tools.

If you have any questions or concerns, please do not hesitate to contact your local account team.

Respectfully,

A handwritten signature in dark ink, appearing to read 'James R. Galloway', is written in a cursive, flowing style.

James R. Galloway
Senior Vice President, AFM

Loss Reporting and Contact Information Seattle Operations



Claims Manager:

David Kramer
Affiliated FM Insurance Company
Key Center, 601 108th Avenue N.E., Suite 1400
Bellevue, WA 98004
Tel: 425-709-5033
david.kramer@fmglobal.com

Property Loss Reporting Procedure:

To ensure that you receive prompt claims service, be sure to report a loss immediately. This enables us to provide you a professional property adjuster to examine your loss. Your loss may give rise to a claim under your Affiliated FM Insurance Company policy.

Notice of Loss:

The notice and report of any loss under an Affiliated FM Insurance Company policy should be communicated by emailing NewLossSeattle@fmglobal.com or calling the 24-hour claims hotline: **1-877-NEW-LOSS (1) 877 639 5677**

If this first notice and report is made orally, it should be confirmed in writing including at least the same information as was provided in the oral first notice and report.

Leaving a Message:

When leaving a message, please include the following information:

- Name and phone number of person to contact
- A brief description of the loss

A claims adjuster will return your call promptly.

Account Engineer:

Derrick Black
Affiliated FM Insurance Company
1000 Southwest Broadway Suite 1150
Portland, OR 97205
Tel: 503-382-3228
Derrick.black@affiliatedfm.com

Jurisdictional Services:

For more information on our jurisdictional inspections services, please contact the Account Engineer as listed above

NOTICE TO TENNESSEE POLICYHOLDERS

The Provisions of Chapter 0780-1-57 requires that certain information accompany all policies issued or renewed after January 1, 1989.

Policyholder Service Office of: Affiliated FM Insurance Company

Address: 1000 SW Broadway Ste 1150
Portland, OR 97205

Telephone Number: 503-228-3650

**IMPORTANT INFORMATION REQUIRED BY THE
LOUISIANA DEPARTMENT OF INSURANCE**

Commercial Property Insurance Policy Coverage Disclosure Summary

This form was promulgated pursuant to LSA-R.S. 22:1332

THIS IS ONLY A SUMMARY OF YOUR COVERAGE AND DOES NOT CHANGE, EXPAND, OR REDUCE THE COVERAGE OR ANY OTHER PROVISIONS CONTAINED IN YOUR POLICY. INSURANCE IS A CONTRACT. THE LANGUAGE IN YOUR INSURANCE POLICY CONTROLS YOUR LEGAL RIGHTS.

****READ YOUR INSURANCE POLICY FOR COMPLETE
POLICY TERMS AND PROVISIONS****

COVERAGE(S) FOR WHICH PREMIUM WAS PAID

Property Damage
Business Interruption

DEDUCTIBLES

This policy sets forth certain deductibles that will be applied to claims for damages. When applicable, a deductible will be subtracted from your total claim and you will be paid the balance subject to applicable coverage limits.

NOTICE: This policy does set forth a deductible for covered losses caused by wind as defined in the policy. Look at the Declaration Page and the following pages of your policy to determine the amount of the deductible that will apply to any claim for damage caused by wind.

****You may be able to reduce your premium by increasing your deductible. Contact your insurance broker or insurance company for more details.**

The following example assumes no coinsurance penalty and a 5% wind deductible applicable to values at risk. The loss amounts to the insured

AFFILIATED FM INSURANCE COMPANY

property are \$1,000,000 (building) and \$500,000 (business personal property).

| | |
|--|------------------|
| Insurance limit on building | \$10,000,000 |
| Total of building insured wind loss | 1,000,000 |
| Minus 5% deductible (10,000,000 x .05) | - <u>500,000</u> |
| Net payment to Insured for building loss | 500,000 |

| | |
|---|------------------|
| Insurance limit on business personal property | 7,000,000 |
| Total of business personal property insured wind loss | 500,000 |
| Minus 5% deductible (7,000,000 x .05) | - <u>350,000</u> |
| Net payment to Insured for business personal property wind loss | 150,000 |

| | |
|---------------------------------------|---------|
| Total net payment to Insured for loss | 650,000 |
|---------------------------------------|---------|

TO SEE EXACTLY HOW YOUR SEPARATE HURRICANE, WIND OR NAMED STORM DEDUCTIBLE WILL APPLY, PLEASE REFER TO YOUR POLICY.

LIMITATIONS OR EXCLUSIONS UNDER THIS POLICY

FLOOD - Flood damage **is not** covered, regardless of how caused, when flood is the peril that causes the loss. This may include, but is not limited to, storm surge, waves, tidal water, overflow of a body of water, whether driven by wind or not.

Flood Insurance may be available through the National Flood Insurance Program (NFIP). NFIP flood insurance may provide coverage for damage to your building and/or contents subject to the coverage limits and terms of the policy.

Excess Flood Insurance may be available under a separate policy from this or another insurer if the amount of the primary flood insurance is not enough to cover the value of your property.

AFFILIATED FM INSURANCE COMPANY

- You may contact your broker or insurer for more information on the National Flood Insurance Program and Excess Flood Insurance.

MOLD - Damage caused solely by Mold is not covered under this policy.

****FOR ALL OTHER LIMITATIONS OR EXCLUSIONS REFER TO YOUR POLICY FOR COMPLETE DETAILS ON TERMS AND PROVISIONS****

EFFECTIVE JANUARY 1, 2010

WASHINGTON NOTICE

RATE NOTICE

Various states have enacted laws that suspend the requirements for the filing of rates used for large commercial insureds. This notice is being sent to you in accordance with the state's requirement for the insurance company to notify clients affected by this law. If you have any questions or concerns, please contact your Broker.

ABOUT THE NOTICE

Q. What is this notice?

- It is written notification that the state permits the use of unfiled insurance rates.

Q. Why did I receive it?

- The state has a law that the policyholder be notified of this change in rate regulation.

Q. What do I have to do?

- No action is required by you.

Q. Will this change in law affect the way my account is rated?

- No, the fact that the rates no longer need to be filed with the state will have no impact on the rating of an account. There are other states that do not require the filing of rates.

Affiliated FM Insurance Company
P.O Box 7500
Johnston, RI 02919

DECLARATIONS PAGE

| | | |
|---|-------------------------------------|-------------------------------------|
| Policy No. PC494 Account No. 1-35101 | Previous Policy No. PC409 | DATE OF ISSUE 01-Jul-2019 |
|---|-------------------------------------|-------------------------------------|

In consideration of this Policy's Provisions, Conditions, Stipulations, Exclusions and Limits of Liability, and the premium charged, Affiliated FM Insurance Company, hereinafter referred to as the "Company", does insure:

INSURED:

Aspen Lodging Group LLC
808 Southwest Alder Street
Suite 300
Portland, OR 97205


(For Complete Title See Policy)

The term of this Policy is from the **1st day of July 2019 to the 1st day of July 2020 at 12:01a.m.**, Standard Time, at the Locations of property involved as provided in this Policy.

This Policy covers property, as described in this Policy, against ALL RISKS OF PHYSICAL LOSS OR DAMAGE, except as hereinafter excluded, while located as described in this Policy.

This Policy is made and accepted subject to the above provisions and those hereinafter stated, which are made a part of this Policy, together with such other provisions and agreements as may be added to this Policy.

In Witness, this Company has issued this Policy at its office in Portland, Oregon this 1st day of July 2019.



Authorized Signature
MKW/kl



Secretary



President

DECLARATIONS

A. POLICY TERM:

01-July-2019 to 01-July-2020

B. NAMED INSURED:

Aspen Lodging Group LLC, and its wholly or majority owned subsidiaries and any interest which may now exist or hereinafter be created or acquired which are owned, controlled or operated by any one or more of those named insureds.

C. POLICY LIMIT:

This Company's total limit of liability, including any insured Business Interruption loss, will not exceed the Policy Limit of \$300,000,000 as a result of any one **occurrence** subject to the respective sub-limits of liability shown elsewhere in this Policy.

D. POLICY TERRITORY:

Coverage provided by this Policy is limited to property while located within the United States of America and Canada except as follows:

Cyber Coverage Territory

Coverage provided in Data Restoration; Data Service Provider Property Damage and Business Interruption and Owned Network Interruption is limited to anywhere in the world except Cuba, Iran, North Korea, Sudan, Syria or Crimea Region of Ukraine.

Supply Chain Coverage Territory

Coverage provided in BUSINESS INTERRUPTION COVERAGE EXTENSIONS, Supply Chain, is limited to property anywhere in the world except in the following countries, provinces or jurisdictions:

Afghanistan; Albania; Algeria; Angola; Armenia; Azerbaijan; Bangladesh; Belarus; Belize; Benin; Bhutan; Botswana; Burkina Faso; Burundi; Cambodia; Cameroon; Central African Republic; Chad; Cote D'Ivoire; Cuba; Democratic Republic of the Congo; Djibouti; Egypt; Equatorial Guinea; Eritrea; Ethiopia; Fiji; Gabon; Gambia; Georgia; Ghana; Grenada; Guinea; Guinea-Bissau; Guyana; Haiti; Honduras; Jammu and Kashmir in India; Iran; Iraq; Israel; Gaza Strip, West Bank and territories north of Latitude 32.80 N in Israel; Kenya; Laos; Lebanon; Lesotho; Liberia; Libya; Madagascar; Malawi; Mali; Mauritania; Mauritius; Moldova; Mongolia; Montenegro; Montserrat; Mozambique; Myanmar; Namibia; Nepal; Niger; Nigeria; North Korea; Pakistan; Papua New Guinea; Aksai Chin and Trans-Karakoram Tract in People's Republic of China; Republic of the Congo; Chechen Republic of the Russian Federation; Rwanda; Senegal; Seychelles; Sierra Leone; Somalia; Sri Lanka; South Sudan; Sudan; Swaziland; Syria; Tajikistan; Tanzania; Timor-Leste; Togo; Agri, Batman, Bingol, Bitlis, Diyarbakir, Elazig, Hakkari, Igdir, Mardin, Mus, Sanliurfa, Siirt, Sirnak and Van in Turkey; Turkmenistan; Uganda; Ukraine; Crimea Region of Ukraine; Uzbekistan; Venezuela; Yemen; Zambia; and Zimbabwe.

DECLARATIONS

E. INSURANCE PROVIDED:

This Policy covers property, as described in this Policy, against ALL RISKS OF PHYSICAL LOSS OR DAMAGE, except as hereinafter excluded, while located as follows:

Location Schedule:

1. Hotel Lucia, 400 Southwest Broadway, Portland, OR, 97205, Index No. 077536.05
2. Hotel Preston, 733 Briley Parkway, Nashville, TN, 37217, Index No. 084825.43
3. Hotel Max, 614-620 Stewart Street, Seattle, WA, 98101-1212, Index No. 078807.48
4. Hotel deLuxe, 729 Southwest 15th Avenue & 1500 Southwest Yamhill Street, Portland, OR, 97205, Index No. 077532.03
5. 815 Southwest 15th Avenue, Portland, OR, 97205, Index No. 077532.03
6. Hotel Murano, 1320 Broadway Plaza, Tacoma, WA, 98402, Index No. 078887.97
7. Alder Building, 550 Southwest Park Avenue, Portland, OR, 97205, Index No. 001902.04
8. Bicentennial Pavilion, 1341 Market Street, Tacoma, WA, 98402, Index No. 078887.97
9. 34 Northwest 9th Avenue, Portland, OR, 97209, Index No. 002075.86
10. Alder Park Building ("GALT Building"), 800-808 Southwest Alder Street, Portland, OR, 97205, Index No. 003245.96
11. Sandy Building ("CENTURY BAR"), 930 Southeast Sandy Boulevard, Portland, OR, 97214-1309, Index No. 003249.23
12. Hotel Theodore, 1531 7th Avenue, Seattle, WA, 98101, Index No. 078804.92
13. Sentinel Hotel, 611-619 Southwest 11th Avenue, Portland, OR, 97205, Index No. 000437.28
14. Mayflower Park Hotel, 405 Olive Way, Seattle, WA, 98101, Index No. 003011.97
15. Hotel Ambassador-Old No 77 Hotel, 535 Tchoupitoulas Street, New Orleans, LA, 70130-3209, Index No. 003153.28
16. Dossier Hotel - Portland, 750 Southwest Alder Street, Portland, OR, 97205, Index No. 003245.96
17. Villa Rosa - Palm Springs, CA, 1577 South Indian Trail, Palm Springs, CA, 92264, Index No. 003394.38
18. Villa Royale - Palm Springs, CA, 1620 South Indian Trail, Palm Springs, CA, 92264-8842, Index No. 003394.38

F. SUB-LIMITS:

Unless otherwise stated below or elsewhere in this Policy, the following sub-limits of liability, including any insured Business Interruption loss, will be the maximum payable and will apply on a per **occurrence** basis.

The sub-limits stated below or elsewhere in this Policy are part of and not in addition to the Policy Limit.

When a limit of liability applies to a **location** or property, such limit of liability will be the maximum amount payable for all loss or damage.

There shall be no liability under this Policy when "NOT COVERED" is shown as a sublimit.

- | | | |
|----|--------------|--|
| 1. | NOT COVERED | Earth Movement annual aggregate for all coverages provided, and is the maximum amount payable for all loss or damage caused by or resulting from Earth Movement |
| 2. | NOT COVERED | Flood annual aggregate for all coverages provided, and is the maximum amount payable for all loss or damage caused by or resulting from Flood |
| 3. | \$51,667,138 | For all coverages at location 15. Hotel Ambassador-Old No 77 Hotel, 535 Tchoupitoulas Street, New Orleans, LA, 70130-3209 not to exceed: |
| | \$40,000,000 | Wind and/or Hail annual aggregate for all coverages provided at the following location(s) : |
| | | 15. Hotel Ambassador-Old No 77 Hotel, 535 Tchoupitoulas Street, New Orleans, LA, 70130-3209 |
| 4. | \$2,288,631 | For all coverages at Location 10. Alder Park Building ("GALT Building"), 800-808 Southwest Alder Street, Portland, OR, 97205 |
| 5. | \$500,000 | Cyber event annual aggregate as respects Data Restoration and Owned Network Interruption combined. |

DECLARATIONS

6. \$500,000 **Cyber event annual aggregate** for loss or damage to **stock in process** or finished goods manufactured by or for the Insured caused by or resulting from **cyber event** that impacts the processing, manufacturing, or testing of such property or while it is otherwise being worked on.

Additional Coverages

| | |
|---------------|--|
| \$1,000,000 | Accounts Receivable |
| \$100,000 | Arson or Theft Reward |
| Policy Limit | Brand Protection |
| \$100,000 | Change of Temperature |
| \$500,000 | Communicable Disease - Property Damage annual aggregate |
| \$500,000 | Data Restoration annual aggregate |
| \$50,000 | Data Service Provider - Property Damage annual aggregate |
| Policy Limit | Debris Removal |
| Policy Limit | Decontamination Costs |
| \$100,000 | Deferred Payment |
| Policy Limit | Demolition and Increased Cost of Construction |
| \$2,500,000 | Errors and Omissions |
| \$250,000 | Expediting Expenses |
| \$1,000,000 | Fine Arts not to exceed \$10,000 per item for irreplaceable Fine Arts |
| \$50,000 | Green Coverage not to exceed 25% of the amount of the property damage loss |
| \$50,000 | Land and Water Clean Up Expense annual aggregate |
| \$100,000 | Locks and Keys |
| \$100,000 | Money and Securities |
| \$5,000,000 | Newly Acquired Property |
| \$2,500,000 | Off-Premises Service Interruption - Property Damage |
| \$100,000 | Professional Fees |
| Policy Limit | Property Removed from a Location |
| Policy Limit | Protection and Preservation of Property - Property Damage not to exceed \$250,000 for security costs |
| \$250,000 | Tax Treatment |
| \$100,000 | Tenants Legal Liability |
| | Terrorism Coverage and the Supplemental United States Certified Act of Terrorism Endorsement |
| \$300,000,000 | A. United States Certified Act of Terrorism coverage |
| \$100,000 | B. Terrorism Coverage for Locations Outside of the United States annual aggregate not to exceed \$100,000 annual aggregate for Property Removed from a Location and Unnamed Property |
| \$1,000,000 | Transit not to exceed \$250,000 for Business Interruption |
| \$2,500,000 | Unnamed Property |
| \$1,000,000 | Valuable Papers and Records not to exceed \$10,000 per item for irreplaceable Valuable Papers and Records |

Business Interruption Coverage

| | |
|--------------|---|
| Policy Limit | Gross Earnings not to exceed 90 days for ordinary payroll |
| Policy Limit | Gross Profits for 12 months Period of Liability not to exceed 90 days for ordinary payroll |
| Policy Limit | Rental Income |
| \$4,000,000 | Extra Expense |

Business Interruption Coverage Extensions

| | |
|-----------|-----------------------------|
| \$100,000 | Attraction Property |
| 30 Days | Civil or Military Authority |

DECLARATIONS

| | |
|--------------|---|
| \$100,000 | Communicable Disease - Business Interruption annual aggregate for a 12 Month Period of Liability |
| \$100,000 | Contractual Penalties |
| \$100,000 | Crisis Management not to exceed 30 Days |
| \$50,000 | Data Service Provider - Business Interruption annual aggregate |
| 365 Days | Extended Period of Liability |
| \$500,000 | Ingress/Egress |
| \$250,000 | Leasehold Interest |
| \$100,000 | Logistics Extra Cost |
| \$2,500,000 | Off-Premises Service Interruption - Business Interruption |
| \$250,000 | Owned Network Interruption annual aggregate |
| Policy Limit | Protection and Preservation of Property - Business Interruption |
| Policy Limit | Research and Development |
| \$250,000 | Soft Costs |
| \$500,000 | Supply Chain |

Real Estate Endorsement

| | |
|-----------|--|
| \$250,000 | Contingent Real Property |
| \$250,000 | Emergency Evacuation Expense |
| \$100,000 | Innkeeper's Liability not to exceed \$10,000 per Hotel Guest |
| \$250,000 | Tenant Relocation Expense |

G. DEDUCTIBLE AMOUNT:

This Company will not be liable for loss or damage, including any insured Business Interruption loss, in any one **occurrence** until the amount of loss or damage exceeds the deductible amount shown below and then this Company will only be liable for its share of the loss or damage in excess of the deductible amount. If two or more deductibles apply to a single **occurrence**, then no more than the largest deductible amount will apply. However, this Policy allows for the application of separate and distinct deductibles and deductibles for specific loss or damage as shown below.

The following deductible amounts shall apply per **occurrence**, unless otherwise stated, for insured loss or damage under this Policy:

1. Wind and/or Hail (per **location** for all coverages provided in this policy) at the following **locations**:

15. Hotel Ambassador-Old No 77 Hotel, 535 Tchoupitoulas Street, New Orleans, LA, 70130-3209

This Company will not be liable for loss or damage unless the amount of loss or damage exceeds 5% of the combined value of the property and annual business interruption value that would have been earned at the time such loss or damage at the **location** where loss or damage occurs plus that proportion of the 100% business interruption value at all other **locations** where business interruption loss ensues, in accordance with the valuation and business interruption sections of this policy, subject to a minimum deductible amount of \$100,000 per **location**. If coverage is provided for more than one **location**, this deductible percentage or minimum deductible amount will be applied separately to each **location**.

2. Communicable Disease Property Damage and Business Interruption:

Qualifying Period: This Company will not be liable for loss or damage unless access is limited, restricted or prohibited in excess of 48 hours.

Should this time be exceeded, the insured loss or damage will be calculated beginning from the time of loss subject to a deductible of:

DECLARATIONS

A. Property Damage: \$10,000

B. Business Interruption Day Equivalent Deductible:

The business interruption deductible will be determined by multiplying the one hundred percent day equivalent (DEQ) by 2.

The day equivalent is the 100% actual annual business interruption value that would have been earned had no loss occurred at the **location** where the physical damage happened plus that proportion of the 100% annual business interruption value at all other **locations** where business interruption loss ensues, divided by the number of annual working days.

3. Data Restoration:

Qualifying Period: 48 hours.

Should this time be exceeded, the insured loss or damage will be calculated beginning from the time of loss subject to a deductible of:

A. Property Damage: \$10,000

B. Business Interruption Day Equivalent Deductible:

The business interruption deductible will be determined by multiplying the one hundred percent day equivalent (DEQ) by 2.

The day equivalent is the 100% actual annual business interruption value that would have been earned had no loss occurred at the **location** where the physical damage happened plus that proportion of the 100% annual business interruption value at all other **locations** where business interruption loss ensues, divided by the number of annual working days.

4. Data Service Provider - Property Damage and Business Interruption:

Qualifying Period: 48 hours.

Should this time be exceeded, the insured loss or damage will be calculated beginning from the time of loss subject to a deductible of:

A. Property Damage: \$10,000

B. Business Interruption Day Equivalent Deductible:

The business interruption deductible will be determined by multiplying the one hundred percent day equivalent (DEQ) by 2.

The day equivalent is the 100% actual annual business interruption value that would have been earned had no loss occurred at the **location** where the physical damage happened plus that proportion of the 100% annual business interruption value at all other **locations** where business interruption loss ensues, divided by the number of annual working days.

5. Off Premises Service Interruption Property Damage and Business Interruption:

Qualifying Period: This Company will not be liable for loss or damage unless the Period of Liability exceeds 24 hours.

DECLARATIONS

Should this time be exceeded, the insured loss or damage will be calculated beginning from the time of loss subject to the deductible(s) that would have applied to the cause of the interruption of services, but not less than \$10,000.

6. Owned Network Interruption:

Qualifying Period: 48 hours.

The Qualifying Period for the cost to temporarily protect under Item 4. b) shall be waived.

Should this time be exceeded, the insured loss will be calculated beginning from the time of loss subject to a Business Interruption Day Equivalent Deductible:

The business interruption deductible will be determined by multiplying the one hundred percent day equivalent (DEQ) by 2.

The day equivalent is the 100% actual annual business interruption value that would have been earned had no loss occurred at the **location** where the loss happened plus that proportion of the 100% annual business interruption value at all other **locations** where business interruption loss ensues, divided by the number of annual working days.

7. \$10,000 All Other Losses.

H. SPECIAL TERMS AND CONDITIONS:

1. **Business Interruption Exclusion:**

Coverage for Business Interruption is excluded at location 17. Villa Rosa - Palm Springs, 1577 South Indian Trail, Palm Springs, CA, 92264.

2. **Historical Replacement Cost - PRO 157 (1/17)**

LOSS ADJUSTMENT AND SETTLEMENT, VALUATION, is amended to include:

With respect to buildings designated by a local, state, or federal authority to be of historical significance or of historical value, such rebuilding, repairing or replacement shall be with modern material, workmanship processes, technologies and designs, and shall not include the cost of re-creating outdated, archaic or antiquated materials, workmanship, processes, technologies, or designs, whether or not such cost otherwise would be covered under ADDITIONAL COVERAGES, Demolition and Increased Cost of Construction.

At the following locations:

1. Hotel Lucia, 400 Southwest Broadway, Portland, OR, 97205
3. Hotel Max, 614-620 Stewart Street, Seattle, WA, 98101-1212
4. Hotel deLuxe, 729 Southwest 15th Avenue & 1500 Southwest Yamhill Street, Portland, OR, 97205
13. Sentinel Hotel, 611-619 Southwest 11th Avenue, Portland, OR, 97205
14. Mayflower Park Hotel, 405 Olive Way, Seattle, WA, 98101
15. Hotel Ambassador-Old No 77 Hotel, 535 Tchoupitoulas Street, New Orleans, LA, 70130-3209

DECLARATIONS

3. United States Certified Act of Terrorism 2015 - PRO 207 (4/15)

As respects the United States, its territories and possessions and the Commonwealth of Puerto Rico, the definition of terrorism contained in DEFINITIONS is declared null and void and it is agreed that an event defined as a Certified Act of Terrorism under the terms of the SUPPLEMENTAL UNITED STATES CERTIFIED ACT OF TERRORISM ENDORSEMENT attached to this Policy shall be considered terrorism within the terms of this policy. Notwithstanding anything contained in this Policy to the contrary, this Policy provides coverage for direct physical loss or damage to insured property and any resulting Business Interruption loss, as provided in the Policy, caused by or resulting from a Certified Act of Terrorism only to the extent coverage is provided under the terms and conditions of the SUPPLEMENTAL UNITED STATES CERTIFIED ACT OF TERRORISM ENDORSEMENT attached to this policy. Any difference in limit between loss recoverable under the SUPPLEMENTAL UNITED STATES CERTIFIED ACT OF TERRORISM ENDORSEMENT and this Policy is not recoverable under this Policy.

4. Additional Named Insured - PRO 65 (04/15)

The following is (are) added as Additional Named Insured(s) on property described below, as their interest may appear:

| <u>Additional Named Insured and Address</u> | <u>Location/ Interest</u> |
|---|--|
| Aspen Tennessee Holdings, LLC 111 Southwest 5th Avenue Suite 1001 Portland, OR 97204 | Hotel Preston 733 Briley Parkway Nashville, TN 37217 |
| Aspen Tennessee, LLC dba Hotel Preston 111 Southwest 5th Avenue Suite 1001 Portland, OR 97204 | Hotel Preston 733 Briley Parkway Nashville, TN 37217 |
| Aspen Nashville, LLC 111 Southwest 5th Avenue Suite 1001 Portland, OR 97204 | Hotel Preston 733 Briley Parkway Nashville, TN 37217 |
| Aspen Nashland, LLC 111 Southwest 5th Avenue Suite 1001 Portland, OR 97204 | Hotel Preston 733 Briley Parkway Nashville, TN 37217 |
| Aspen Kap, LLC 111 Southwest 5th Avenue Suite 1001 Portland, OR 97204 | Kaplan Career College 750 Envious Lane Nashville, TN 37217 |
| Aspen Mallory, LLC 111 Southwest 5th Avenue Suite 1001 Portland, OR 97204 | Hotel deLuxe 729 Southwest 15th Avenue Portland, OR 97205 |
| Aspen Mallory Holdings, LLC dba Hotel deLuxe 111 Southwest 5th Avenue Suite 1001 Portland, OR 97204 | Hotel deLuxe 729 Southwest 15th Avenue Portland, OR 97205 |
| Aspen Mallory Management, LLC 111 Southwest 5th Avenue Suite 1001 Portland, OR 97204 | Hotel deLuxe 729 Southwest 15th Avenue Portland, OR 97205 |

DECLARATIONS

Additional Named Insured and Address

deLuxe Restaurant, LLC dba Gracie's Restaurant
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

Aspen Imperial Holdings, LLC
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

Aspen Imperial, LLC dba Hotel Lucia
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

Aspen Imperial Management, LLC
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

Vance Hotel Holdings, LLC
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

Vance Hotel Associates, LLC dba Hotel Max
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

DV, Inc.
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

KS Tacoma Holdings, LLC
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

KS Tacoma Hotel, LLC dba Hotel Murano
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

Dunson Tacoma Management, LLC
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

KS Cornerstone, Inc.
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

Aspen Alder LLC
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

Alder Park Investments, LLC
an Oregon limited liability company
c/o Provenance Hotels
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

Location/ Interest

Hotel deLuxe
729 Southwest 15th Avenue
Portland, OR 97205

Hotel Lucia
400 Southwest Broadway
Portland, OR 97205

Hotel Lucia
400 Southwest Broadway
Portland, OR 97205

Hotel Lucia
400 Southwest Broadway
Portland, OR 97205

Hotel Max
614-620 Stewart Street
Seattle, WA 98101-1212

Hotel Max
614-620 Stewart Street
Seattle, WA 98101-1212

Hotel Max
614-620 Stewart Street
Seattle, WA 98101-1212

Hotel Murano
1320 Broadway
Tacoma, WA 98402

Hotel Murano
1320 Broadway
Tacoma, WA 98402

Hotel Murano
1320 Broadway
Tacoma, WA 98402

Hotel Murano
1320 Broadway
Tacoma, WA 98402

Alder Building
550 Southwest Park Avenue
Portland, OR, 97205-3201

800-808 Southwest Alder Street
Portland, OR 97205

DECLARATIONS

Additional Named Insured and Address

Roosevelt Hotel Owner LLC
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

Portland Governor Hotel Acquisition, LLC
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

Mayflower Hotel Owner LLC
Aspen Flower LLC
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

The Bank of New York Mellon
a NY Corporation, ISAOA ATIMA
Attn: IM Real Estate Group
1 Wall Street, 6th Floor
New York, NY 10286

930 Sandy Bar, LLC and Sandy Investors, LLC
111 Southwest 5th Avenue Suite 1001
Portland, OR 97204

Location/ Interest

Hotel Theodore
1531 7th Avenue
Seattle, WA, 98101

Sentinel Hotel
614 Southwest 11th Avenue
Portland, OR 97205

Mayflower Hotel
405 Olive Way
Seattle, WA 98101

Hotel Max
620 Stewart Street
Seattle, WA 98101-1212

Sandy Building
930 Southeast Sandy Boulevard
Portland, OR 97214-1309

5. Mortgagee/Lenders Loss Payable - PRO 66 (4/15)

Subject to the GENERAL CONDITIONS, MORTGAGEE/LENDERS LOSS PAYABLE, loss, if any, under this Policy will be adjusted with and made payable to the Insured and the following, as their interest may appear:

Mortgagee/Lender and Address

The Bank of New York Mellon
a New York Corporation
its successors and assigns
1 Wall Street 6th Floor
New York, NY 10286

Wells Fargo Bank National Association
as successor Trustee to LaSalle Bank,
National Association, as Trustee, in trust for
Holders of Deutsche Mortgage & Asset Receiving
Corporation, COMM 2006-C8 Commercial
Mortgage Pass-Through Certificates, its successors
and/or assigns, c/o Midland Loan Services, a PNC
Real Estate Business
PO Box 25968
Shawnee Mission, KS 66225-5968

LoanCore Capital Credit REIT LLC
its successors and assigns, as their interest
may appear
55 Railroad Avenue Suite 100
Greenwich, CT 06830

Location/Interest

Sentinel Hotel
614 Southwest 11th Avenue
Portland, OR 97205

Hotel Lucia
400 Southwest Broadway
Portland, OR 97205
Loan Number: 030257879

Hotel Theodore, 1531 7th Avenue
Seattle, WA, 98101

DECLARATIONS

Mortgage/Lender and Address

LoanCore Capital Credit REIT LLC
c/o Wells Fargo Bank, N.A.
D1118-02W
1525 West W.T. Harris Blvd
Charlotte, NC 28262

Location/Interest

Hotel Ambassador-Old No 77 Hotel
535 Tchoupitoulas Street
New Orleans, LA, 70130-3209
Loan #406100463

ZB, N.A. DBA the Commerce Bank of Washington
601 Union Street Suite 3600
Seattle, WA 98101

Alder Building, 550 Southwest Park Avenue
Portland, OR, 97205

First Republic Bank
its successors and/or assigns
Attn: Commercial Insurance
PO Box 1962
Kennesaw, GA 30156

Alder Building, 550 Southwest Park Avenue
Portland, OR, 97205

6. **A. Primary insurance**

As respects the interest of First Republic Bank, in the event that any risk insured under this Policy is also insured under any other policy of insurance, this Company agrees to indemnify the First Republic Bank as if such other policy of insurance did not exist as respects the following location:

Location

Limit of Liability

Mayflower Hotel, 405 Olive Way, Seattle, WA, 98101

\$12,000,000 (loan amount)

However, in the event that any loss or damage insured under this Policy is also insured under any other policy of insurance and such policy inures to the benefit of First Republic Bank, then this will act as excess only.

7. **Application of Flood and Wind and/or Hail Deductibles - PRO 149 (1/17)**

If an occurrence involves loss or damage caused by or resulting from both:

a. Wind and/or hail; and

b. Flood;

Then:

1) A specific wind and/or hail deductible; and

2) A specific **flood** deductible;

Will apply separately to each location.

Such loss or damage will be adjusted separately and will be subject to its respective deductible.

DECLARATIONS

8. Fine Arts Schedule - PRO 13 (1/17)

The following limit(s) apply to each article in the schedule of Fine Arts listed below.

| <u>Article</u> | <u>Description</u> | <u>Limit(s) of Liability</u> |
|---|--------------------|------------------------------|
| As per schedule on File Dated 7/03/2018 | | \$3,798,689 |
| Unscheduled Fine Arts | | \$250,000 |

The Fine Arts limit of liability shown in the ADDITIONAL COVERAGES Sub-limit of the DECLARATIONS will apply to unscheduled article of Fine Arts per occurrence.

DECLARATIONS

I. INDEX OF FORMS:

The following forms are made part of this Policy:

| <u>Title</u> | <u>Form No.</u> | <u>Edition</u> |
|--|-------------------------|----------------|
| Declarations Page | PRO DEC 4100 | (04/15) |
| Declarations | PRO S-1 4100 | (01/17) |
| All Risk Coverage | PRO AR 4100 | (01/17) |
| Real Estate Endorsement | PRO RE CRP 4100 | (01/17) |
| Cyber Event Endorsement | PRO CYBER EVENT 4100 | (06/19) |
| Supplemental United States Certified Act of Terrorism Endorsement | 7312 | (1/15) |
| California Amendatory Endorsement | AFM 6488 | (04/15) |
| Louisiana Amendatory Endorsement | AFM 7005 | (04/15) |
| Oregon Amendatory Endorsement | AFM 6400 | (04/15) |
| Tennessee Amendatory Endorsement | AFM 6409 | (04/15) |
| Washington Amendatory Endorsement | AFM 7415 | (04/15) |

ALL RISK COVERAGE

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ALL RISK COVERAGE

This Policy covers property, as described in this Policy, against ALL RISKS OF PHYSICAL LOSS OR DAMAGE, except as hereinafter excluded, while located as described in this Policy.

A. PROPERTY INSURED

This Policy insures the following property, unless otherwise excluded elsewhere in this Policy, at or within 1,000 feet of a **described location**, to the extent of the interest of the Insured in such property.

1. Real Property in which the Insured has an insurable interest.
2. Personal Property:
 - a) Owned by the Insured.
 - b) Consisting of improvements and betterments in which the Insured has an insurable interest.
 - c) Of directors, officers and employees of the Insured.
 - d) Of others in the Insured's custody to the extent the Insured is under obligation to keep insured for physical loss or damage insured by this Policy.
 - e) Of others in the Insured's custody to the extent of the Insured's legal liability for insured physical loss or damage to such Personal Property.

This Company may defend that portion of any suit against the Insured that alleges such liability and seeks damages for such insured physical loss or damage to such Personal Property. This Company may, without prejudice, investigate, negotiate and settle any claim or suit as this Company deems expedient.

This Policy also insures the interest of contractors and subcontractors in insured property during construction, while at or within 1,000 feet of a **described location**, to the extent that the Insured has agreed, prior to loss, to keep such interest insured for insured physical loss or damage to such property. Such interest of contractors and subcontractors is limited to the property for which they have been hired to perform work and will not extend to any Business Interruption coverage provided in this Policy.

B. PROPERTY EXCLUDED

This Policy excludes the following except as otherwise stated in this Policy:

1. Land, water or any substance in or on land.
2. Growing crops, standing timber or animals.
3. Bridges and tunnels intended for use by motor vehicles licensed for highway use.
4. Reservoirs, canals, dikes or dams.
5. Docks, piers or wharves which are not a structural part of a building.
6. Currency, money, notes or securities, except as provided by the Money and Securities coverage in this Policy.
7. Motor vehicles licensed for highway use or owned by directors, officers or employees of the Insured.

8. Satellites, aircraft or watercraft, except if on land, unfueled and manufactured by the Insured.
9. Property sold by the Insured under conditional sale, trust agreement, installment payment or other deferred payment plan after delivery to the customer, except as provided by the Deferred Payment coverage in this Policy.
10. Underground mines or mine shafts or any property within such mine or shaft.
11. Property while in transit, except as otherwise provided in this Policy.
12. Electronic data, programs or software, except when they are stock in process, finished goods manufactured by the Insured, raw materials, supplies or other merchandise not manufactured by the Insured or as provided by the Data, Programs or Software coverage in this Policy.
13. Property while located **offshore**, except as provided by the Transit coverage in this Policy.

C. EXCLUSIONS

In addition to the exclusions elsewhere in this Policy, the following exclusions apply unless otherwise stated:

GROUP I: This Policy excludes loss or damage directly or indirectly caused by or resulting from any of the following regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any other sequence to the loss or damage:

1. Nuclear reaction or nuclear radiation or radioactive contamination. However:
 - a) If physical damage by fire or sprinkler leakage results, then only that resulting damage is insured; but not including any loss or damage due to nuclear reaction, radiation or radioactive contamination.
 - b) This Policy does insure physical damage directly caused by sudden and accidental radioactive contamination, including resultant radiation damage, from material used or stored or from processes conducted on the **location**, provided that on the date of loss, there is neither a nuclear reactor nor any new or used nuclear fuel on the **location**. This coverage does not apply to any act, loss or damage excluded in Group I Item 2f of this Exclusions clause.

This exclusion Group I Item 1 and the exceptions in Group I Item 1a and Group I Item 1b above do not apply to any act, loss or damage which also comes within the terms of exclusion Group I Item 2b of this Exclusions clause.

2. a) Hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack by any:
 - i) Government or sovereign power (de jure or de facto);
 - ii) Military, naval or air forces; or
 - iii) Agent or authority of any party specified in i) or ii) above.
- b) Discharge, explosion or use of any nuclear device, weapon or material employing or involving nuclear fission, fusion or radioactive force, whether in time of peace or war and regardless of who commits the act.
- c) Insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an event.
- d) Seizure or destruction under quarantine or custom regulation, or confiscation by order of any governmental or public authority.
- e) Risks of contraband, or illegal transportation or trade.

- f) **Terrorism**, including action taken to prevent, defend against, respond to or retaliate against **terrorism** or suspected **terrorism**, except to the extent provided in the Terrorism coverage of this Policy. However, if direct loss or damage by fire results from any of these acts (unless committed by or on behalf of the Insured), then this Policy covers only to the extent of the **actual cash value** of the resulting direct loss or damage by fire to insured property. This coverage exception for such resulting fire loss or damage does not apply to:
 - i) Direct loss or damage by fire which results from any other applicable exclusion in the Policy, including the discharge, explosion or use of any nuclear device, weapon or material employing or involving nuclear fission, fusion or radioactive force, whether in time of peace or war and regardless of who commits the act.
 - ii) Any coverage provided in the Business Interruption section of this Policy or to any other coverages provided by this Policy.

Any act which satisfies the definition of **terrorism** shall not be considered to be vandalism, malicious mischief, riot, civil commotion or any other risk of physical loss or damage covered elsewhere in this Policy.

If any act which satisfies the definition of **terrorism** also comes within the terms of Group I Item 2a of this Exclusions clause then Group I Item 2a applies in place of this Group I Item 2f exclusion.

If any act which satisfies the definition of **terrorism** also comes within the terms of Group I Item 2b of this Exclusions clause then Group I Item 2b applies in place of this Group I Item 2f exclusion.

If any act which satisfies the definition of **terrorism** also comes within the terms of Group I Item 2c of this Exclusions clause then Group I Item 2c applies in place of this Group I Item 2f exclusion.

If any act excluded herein involves nuclear reaction, nuclear radiation or radioactive contamination, this Group I Item 2f exclusion applies in place of Group I Item 1 of this Exclusions clause.

- 3. Any dishonest act, including but not limited to theft, committed alone or in collusion with others, at any time by:
 - a) An Insured or any proprietor, partner, director, trustee, officer or employee of an Insured; or
 - b) Any proprietor, partner, director, trustee, or officer of any business or entity (other than a common carrier) engaged by an Insured to do anything in connection with property insured under this Policy.

This Policy does insure acts of direct insured physical damage intentionally caused by an employee of an Insured or any individual specified in b above, and done without the knowledge of the Insured. This coverage does not apply to any act excluded in Group I Item 2f of this Exclusions clause. In no event does this Policy cover loss by theft by any individual specified in a or b above.

- 4. Lack of incoming electricity, fuel, water, gas, steam or refrigerant; outgoing sewerage; or incoming or outgoing voice, data or video; all when caused by an event off the **location**, except as provided by the Off-Premises Data Services and Off-Premises Service Interruption coverages in this Policy. If the lack of such a service directly causes insured physical damage at the **location**, then only that resulting damage is insured.
- 5. **Earth movement**, except as otherwise provided in this Policy.
- 6. **Flood**, except as otherwise provided in this Policy.
- 7. Seepage or influx of water from natural underground sources.

GROUP II: This Policy excludes the following, however, if physical damage not excluded by this Policy results, then only that resulting damage is insured:

1. Wear and tear, deterioration, depletion, rust, corrosion, erosion, inherent vice or latent defect.
2. Faulty workmanship, material, construction or design.
3. Loss or damage to stock or material attributable to manufacturing or processing operations while such stock or material is being processed, manufactured, tested or otherwise worked on.
4. Loss or damage caused by or resulting from:
 - a) Changes of temperature, except damage to machinery or equipment including fire protective equipment;
 - b) Changes in relative humidity,

All whether atmospheric or not, except as provided by the Change of Temperature and Off-Premises Service Interruption coverages in this Policy.

5. Settling, cracking, shrinking, bulging or expansion of:
 - a) Foundations.
 - b) Walls.
 - c) Floors.
 - d) Pavements or roadways.
 - e) Roofs.
 - f) Ceilings.
6. Loss or damage to personal property in the open from rain, sleet, snow, sand or dust.
7. Theft of precious metal or stones, except when such property is used by the Insured for industrial purposes.
8. Insect, animal or vermin damage.

GROUP III: This Policy excludes:

1. Indirect or remote loss or damage.
2. Interruption of business, except to the extent provided in this Policy.
3. Loss of market or loss of use.
4. Loss or damage or deterioration arising from any delay.
5. Mysterious disappearance, loss or shortage disclosed on taking inventory, or any unexplained loss.
6. Loss from enforcement of any law or ordinance:
 - a) Regulating the construction, repair, replacement, use or removal, including debris removal, of any property; or
 - b) Requiring the demolition of any property, including the cost in removing its debris;

Except as provided by the Decontamination Costs and Demolition and Increased Cost of Construction coverages in this Policy.

7. Loss or damage resulting from the voluntary parting with title or possession of property if induced by any fraudulent act or by false pretense.
8. **Contamination**, and any cost due to **contamination** including the inability to use or occupy property or any cost of making property safe or suitable for use or occupancy. If **contamination** due only to the actual not suspected presence of **contaminant(s)** directly results from other physical damage not excluded by this Policy, then only physical damage caused by such **contamination** may be insured. This exclusion does not apply to radioactive contamination which is excluded elsewhere in this Policy.
9. Shrinkage, evaporation or loss of weight, unless directly resulting from other physical damage not excluded by this Policy.
10. Changes in color, flavor, texture or finish, unless directly resulting from other physical damage not excluded by this Policy.

D. ADDITIONAL COVERAGES

The Additional Coverages below are subject to all the terms and conditions of this Policy including, but not limited to, the limits of liability, deductibles and exclusions shown in the Declarations section.

1. Accounts Receivable

This Policy covers amounts which the Insured is unable to collect as a direct result of insured physical loss or damage to accounts receivable records at a **location**.

Coverage includes:

- a) Interest charges on any loan to offset impaired collections pending repayment of sums that cannot be collected. Unearned interest charges and service charges on deferred payment accounts and normal credit losses on bad debts will be deducted.
- b) Collection expenses in excess of normal collection costs.
- c) Other reasonable expenses incurred by the Insured in recreating records of accounts receivable.

After payment of loss by this Company, all amounts recovered by the Insured on accounts receivable for which the Insured has been indemnified will belong to and be paid to this Company by the Insured up to the total amount of loss paid by this Company. All recoveries in excess of such amounts will belong to the Insured.

Accounts Receivable Exclusions: As respects Accounts Receivable, the following additional exclusions apply:

This Policy does not cover shortage resulting from:

- a) Bookkeeping, accounting, or billing error or omission.
- b) Alteration, falsification, manipulation, concealment, destruction or disposal of records of accounts receivable committed to conceal the wrongful giving, taking, obtaining or withholding of money, securities or other property.

2. Arson or Theft Reward

This Policy covers payment of any reward offered by the Insured or on the Insured's behalf for information that leads to conviction of the perpetrator(s) of insured:

- a) Arson to; or
- b) Theft of;

Insured property.

3. Brand Protection

This Policy gives control of physically damaged property consisting of finished goods or merchandise manufactured by or for the Insured as follows:

- a) The Insured will have full rights to the possession and control of damaged property in the event of insured physical loss or damage to such property provided proper testing is done to show which property is physically damaged.
- b) The Insured using reasonable judgment will decide if the physically damaged property can be reprocessed or sold.

Physically damaged property judged by the Insured to be:

- i) Unfit for reprocessing or selling will not be sold or disposed of except by the Insured, or with the Insured's consent.
- ii) Fit for reprocessing or selling and this Company elects to take all or any part of physically damaged branded and labeled property, the Insured may at this Company's expense:
 - (a) Stamp "salvage" on the property or its containers; or
 - (b) Remove or obliterate the brands or labels,

If doing so will not damage the property.

The Insured must relabel the property or containers in compliance with the applicable requirements of law.

- c) Any salvage proceeds received will go to the:
 - i) Company at the time of loss settlement; or
 - ii) Insured if received prior to loss settlement and such proceeds will reduce the amount of loss payable accordingly.

4. Change of Temperature

This Policy covers spoilage of insured stock and supplies due to:

- a) Changes of temperature or changes in relative humidity,

Directly resulting from the interruption, in whole or part, of services consisting of electricity, gas, fuel, steam, water or refrigeration by reason of any accidental event, other than insured physical loss or damage, at a **location**.

5. Communicable Disease – Property Damage

If a **described location** owned, leased or rented by the Insured has the actual not suspected presence of **communicable disease** and access to such **described location** is limited, restricted or prohibited by:

- a) An order of an authorized governmental agency regulating or as result of such presence of **communicable disease**; or
- b) A decision of an Officer of the Insured as a result of such presence of **communicable disease**,

This Policy covers the reasonable and necessary costs incurred by the Insured at such **described location** for the:

- a) Cleanup, removal and disposal of such presence of **communicable disease** from insured property; and
- b) Actual costs or fees payable to public relations services or actual costs of using the Insured's employees for reputation management resulting from such presence of **communicable disease** on insured property.

This Additional Coverage does not cover any costs incurred due to any law or ordinance with which the Insured was legally obligated to comply prior to such presence of **communicable disease**.

This coverage is subject to the Qualifying Period in the Declarations section of this Policy.

Communicable Disease - Property Damage Exclusions: As respects Communicable Disease – Property Damage, the following additional exclusion applies:

This Policy excludes loss or damage directly or indirectly caused by or resulting from **terrorism** regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any other sequence to the loss.

6. Data, Programs or Software

This Policy covers insured **physical loss or damage to electronic data, programs or software**, including physical loss or damage caused by the malicious introduction of a machine code or instruction, while anywhere within this Policy's Territory, including while in transit.

This coverage includes:

- a) The cost of the following reasonable and necessary actions taken by the Insured due to actual insured **physical loss or damage to electronic data, programs or software**:
 - i) To temporarily protect and preserve insured electronic data, programs or software.
 - ii) For the temporary repair of insured **physical loss or damage to electronic data, programs or software**.
 - iii) To expedite the permanent repair or replacement of such damaged property.
- b) The reasonable and necessary costs incurred by the Insured to temporarily protect or preserve insured electronic data, programs or software against immediately impending insured **physical loss or damage to electronic data, programs or software**. In the event that there is no physical loss or damage, the costs covered under this item will be subject to the deductible that would have applied had there been such physical loss or damage.

This coverage is subject to the Qualifying Period in the Declarations section of this Policy.

This Additional Coverage excludes loss or damage to data, programs or software when they are **stock in process**, finished goods manufactured by the Insured, **raw materials**, supplies or other merchandise not manufactured by the Insured.

Data, Programs or Software Exclusions: As respects Data, Programs or Software, the following additional exclusion applies:

This Policy excludes the following but, if physical damage not excluded by this Policy results, then only that resulting damage is insured:

- a) Errors or omissions in processing or copying.
- b) Loss or damage to data, programs or software from errors or omissions in programming or machine instructions.

Data, Programs or Software Valuation: On property insured under this coverage, the loss amount will not exceed:

- a) The cost to repair, replace or restore data, programs or software including the costs to recreate, research and engineer; or
- b) The blank value of the media if not repaired, replaced or restored within two years from the date of loss.

7. Debris Removal

This Policy covers the reasonable and necessary costs incurred to remove debris from a **location** that remains as the direct result of insured physical loss or damage.

This coverage does not cover the costs of removing:

- a) Contaminated uninsured property; or
- b) The **contaminant** in or on uninsured property;

Whether or not the **contamination** results from insured physical loss or damage.

This coverage includes the costs of removal of contaminated insured property or the **contaminant** in or on insured property only if the **contamination**, due to the actual not suspected presence of **contaminant(s)**, of the debris resulted directly from other physical damage not excluded by the Policy.

8. Decontamination Costs

If insured property is contaminated as a direct result of insured physical damage and there is in force at the time of the loss any law or ordinance regulating **contamination** due to the actual not suspected presence of **contaminant(s)**, then this Policy covers, as a direct result of enforcement of such law or ordinance, the increased cost of decontamination and/or removal of such contaminated insured property in a manner to satisfy such law or ordinance. This coverage applies only to that part of insured property so contaminated due to such presence of **contaminant(s)** as a direct result of insured physical damage.

The Company is not liable for the costs required for removing:

- a) Contaminated uninsured property; or
- b) The **contaminant** in or on uninsured property;

Whether or not the **contamination** results from insured physical loss or damage.

9. Deferred Payment

This Policy covers the Insured's interest in personal property of the type insured that has been sold by the Insured under a conditional sale or trust agreement or any installment or deferred payment plan, if such property sustains physical loss or damage insured by this Policy and only to the extent the Insured is unable to collect the unpaid balance of such interest.

This coverage applies from the time the property is delivered to the buyer until the Insured's interest in it has ceased or the policy terminates or expires, whichever is first.

Deferred Payment Exclusion: As respects Deferred Payment, the following additional exclusion applies:

This Policy excludes:

- a) Theft or conversion by the buyer of the property after the buyer has taken possession of such property.
- b) Property not within this Policy's Territory.

Deferred Payment Valuation: On property insured under this coverage, the loss amount will not exceed the lesser of the following:

- a) The total amount of unpaid installments less finance charges.
- b) The **actual cash value** of the property on the date of loss or damage.
- c) The cost to repair or replace with material of like size, kind and quality.

10. Demolition and Increased Cost of Construction

This Policy covers the costs as described herein resulting from the Insured's obligation to comply with a law or ordinance, provided that:

- a) Such law or ordinance is enforced as a direct result of insured physical loss or damage at a **location**;
- b) Such law or ordinance is in force at the time of such loss or damage; and
- c) Such **location** was not required to be in compliance with such law or ordinance prior to the happening of the insured physical loss or damage.

Coverage A:

The reasonable and necessary costs incurred by the Insured to comply with the enforcement of the minimum requirements of any law or ordinance that Regulates the demolition, construction, repair, replacement or use of buildings, structures, machinery or equipment.

As respects insured property, this Coverage A covers the reasonable and necessary costs to:

- a) Demolish any physically damaged and undamaged portions of the insured buildings, structures, machinery or equipment.
- b) Repair or rebuild the physically damaged and undamaged portions, whether or not demolition is required, of such insured buildings, structures, machinery or equipment.

The Company's maximum liability for this Coverage A at each location in any occurrence will not exceed the actual costs incurred in demolishing the physically damaged and undamaged portions of the insured property plus the lesser of:

- a) The reasonable and necessary cost, excluding the cost of land, to rebuild on another site; or
- b) The cost to rebuild on the same site.

Coverage B:

The reasonable estimated cost to repair, replace or rebuild insured property consisting of buildings, structures, machinery or equipment that the Insured is legally prohibited from repairing, replacing or rebuilding to the same height, floor area, number of units, configuration, occupancy or operating capacity, because of the enforcement of any law or ordinance that regulates the construction, repair, replacement or use of buildings, structures, machinery or equipment.

Demolition and Increased Cost of Construction Coverage B Valuation: On property covered under this Coverage B that cannot legally be repaired or replaced, the loss amount will be the difference between:

- a) The **actual cash value**; and
- b) The cost that would have been incurred to repair, replace or rebuild such lost or damaged property had such law or ordinance not been enforced at the time of loss.

Demolition and Increased Cost of Construction Exclusions: As respects Demolition and Increased Cost of Construction, the following additional exclusions apply:

This Policy does not cover:

- a) Any cost incurred as a direct or indirect result of enforcement of any law or ordinance regulating any form of **contamination**.
- b) Any machinery or equipment manufactured by or for the Insured, unless used by the Insured in its operation at the **location** suffering the physical loss or damage.

11. Earth Movement

This Policy covers physical loss or damage caused by or resulting from **earth movement**.

12. Errors and Omissions

If physical loss or damage is not payable under this Policy solely due to an error or unintentional omission:

- a) In the address of a property insured by this Policy which existed at the inception date of this Policy or in any subsequent amendments to this Policy;
- b) That fails to include any **location**:
 - i) Owned; or
 - ii) Occupied by the Insured; or
- c) That results in cancellation of insured property under this Policy;

Then coverage applies to the extent this Policy would have provided coverage had the error or unintentional omission not been made.

It is a condition of this Additional Coverage that any error or unintentional omission be reported by the Insured to the Company when discovered and corrected.

13. Expediting Expenses

This Policy covers the reasonable and necessary costs incurred to:

- a) Temporarily repair or replace; and
- b) Expedite the permanent repair or replacement of;

Insured property that has sustained insured physical loss or damage.

This coverage does not include expenses payable elsewhere in this Policy including the cost of permanent repair or replacement of damaged property.

14. Fine Arts and Valuable Papers and Records

This Policy covers **fine arts** and **valuable papers and records** while anywhere within this Policy's Territory including while in transit.

Fine Arts and Valuable Papers and Records Exclusion: As respects Fine Arts and Valuable Papers and Records, the following additional exclusion applies:

This Policy excludes:

- a) Loss or damage to any **fine arts** as a result of restoring, repairing or retouching processes.
- b) Errors or omissions in the processing or copying of **valuable papers and records**.

Fine Arts and Valuable Papers and Records Valuation: On property insured under this coverage, the loss amount will not exceed the lesser of the following:

- a) The cost to repair or restore the article to the condition that existed immediately prior to the loss;
- b) The cost to replace the article; or
- c) The value designated for the article as shown in the Declarations section of this Policy or on a schedule on file with this Company.

In case of physical loss or damage to a **fine arts** or **valuable papers and records** article that is part of a pair or a set, this Company will pay the lesser of the full value or the amount scheduled, if any, of the value of such pair or set only if the damaged article cannot be repaired or restored to its condition before the loss and the Insured surrenders the remaining article or articles of the pair or set to this Company.

15. Flood

This Policy covers physical loss or damage caused by or resulting from **flood**.

16. Green Coverage

This Policy covers the reasonable and necessary additional costs incurred by the Insured, as a direct result of insured physical loss or damage:

- a) To repair or replace physically damaged insured property with material of like kind and quality which qualifies as **Green**.
- b) To replace the insured physically damaged portions of insured roofing systems with vegetative roof(s), including but not limited to the addition of trees, shrubs, plants and lawns to those roof(s), which qualify as **Green**, if this Policy covers Real Property.
- c) As part of **Green** reconstruction, to flush out the air in the area of the physically damaged insured property with 100 percent outside air and to provide replacement filtration media for the building's ventilation system that controls the damaged area.
- d) For an accredited professional certified by a **Green Authority** to participate in the design and construction for repairing or rebuilding the physically damaged insured property as **Green**.
- e) For the process of certification or recertification of the repaired or replaced insured property as **Green**.
- f) For **Green** removal, disposal or recycling of the damaged insured property.

Notwithstanding any other provision in this Policy, the Insured must repair or replace the insured real and/or personal property lost, damaged or destroyed as a condition of this coverage.

Green Coverage Exclusions: As respects Green Coverage, the following additional exclusions apply:

This Policy excludes:

- a) Stock, **raw materials**, work in process, finished goods, merchandise, **production machinery and equipment**, electronic data processing equipment not used in the functional support of the real property, molds and dies, property in the open, property of others for which the insured is legally liable, personal property of directors, officers or employees of the Insured.
- b) Any property adjusted on other than repair or replacement per the Valuation clauses of this Policy.
- c) Any loss recoverable elsewhere in this Policy.

17. Land and Water Clean Up Expense

This Policy covers the reasonable and necessary costs to remove, dispose of or clean up the actual but not the suspected presence of **contaminant(s)** from uninsured land or water or any substance in or on land, at a **location**, when such property is contaminated as a direct result of insured physical loss or damage to insured property.

This Policy does not cover the cost to clean up, remove and dispose of **contamination** from such property:

- a) At any **location** insured for Personal Property only.
- b) When the Insured fails to give written notice of loss to this Company within 180 days after the inception of the loss.

18. Locks and Keys

This Policy covers the reasonable and necessary cost incurred by the Insured to replace undamaged keys and to replace, adjust or reprogram undamaged locks to accept new keys or entry codes as a result of insured physical loss or damage.

19. Money and Securities

This Policy covers physical loss or damage to money and securities at a **location** resulting from:

- a) Fire, explosion or sprinkler leakage.

20. Newly Acquired Property

This Policy covers property of the type insured that is newly acquired while located anywhere within this Policy's Territory, excluding while in transit.

This coverage terminates:

- a) When the newly acquired property is bound by this Company; or
- b) When agreement is reached that the property will not be insured under this Policy; or
- c) 120 days after the date of acquisition of the property; or
- d) At the termination or expiration of this Policy;

Whichever occurs first.

21. Off-Premises Data Services - Property Damage

This Policy covers insured physical loss or damage to insured property at a **location** when such physical loss or damage results from the interruption of **off-premises data processing or data transmission services** by reason of any accidental event at the facilities of the provider of such services, while anywhere within this Policy's Territory, that immediately prevents in whole or in part the delivery of such provided services.

For the purposes of this Additional Coverage an accidental event to satellites will be considered an accidental event at the facilities of the provider.

This coverage is subject to the Qualifying Period in the Declarations section of this Policy.

Additional General Conditions:

- 1) The Insured will immediately notify the company providing **off-premises data processing or data transmission services** of any interruption of such services.
- 2) The Company will not be liable if the interruption of such services is caused directly or indirectly by the failure of the Insured to comply with the terms and conditions of any contracts the Insured has entered into for such specified services.

Off Premises Data Services - Property Damage Exclusions: As respects Off-Premises Data Services - Property Damage, the following additional exclusion applies:

This Policy excludes loss or damage directly or indirectly caused by or resulting from **terrorism** regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any other sequence to the loss.

22. Off-Premises Service Interruption - Property Damage

This Policy covers insured physical loss or damage at a **location** caused by or resulting from the interruption, in whole or part, of incoming electric, gas, fuel, steam, water, refrigeration, or outgoing sewerage.

The interruption of such services must be by reason of an accidental event, not otherwise excluded by this Policy, at the facilities of the service provider(s) while anywhere within this Policy's Territory.

This coverage is subject to the Qualifying Period in the Declarations section of this Policy.

Additional Conditions:

This Company will not be liable for deliberate act(s) by the service provider to shed load to maintain system integrity.

Off-Premises Service Interruption - Property Damage Exclusion: As respects Off-Premises Service Interruption - Property Damage the following additional exclusions apply:

This Policy excludes loss or damage directly or indirectly caused by or resulting from **terrorism** regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any other sequence to the loss.

23. Professional Fees

This Policy covers the reasonable and necessary expenses incurred by the Insured of:

- a) Auditors;
- b) Accountants;
- c) Architects;
- d) Engineers; or
- e) Other professionals; and
- f) The Insured's own employees,

For producing and certifying particulars or details to determine the amount of loss payable under this Policy for which this Company has accepted liability.

This coverage does not include the fees and expenses of attorneys, public adjusters, loss appraisers, loss consultants or any of their subsidiaries or related or associated entities.

24. Property Removed from a Location

This Policy covers insured property when removed from a **location** to avoid or prevent immediately impending insured physical loss or damage to such property. This Policy covers such property for physical loss or damage as provided at the **location** from which the property was removed.

This coverage applies for a period:

- a) Of 120 days from the date of removal; but
- b) Not beyond the termination or expiration date of this Policy.

25. Protection and Preservation of Property - Property Damage

This Policy covers the reasonable and necessary costs incurred for:

- a) Actions to temporarily protect or preserve insured property; provided such actions are necessary due to actual, or to prevent immediately impending, insured physical loss or damage to such insured property.
- b) Fire department firefighting charges imposed as a result of responding to a fire in, on or exposing the insured property.
- c) Restoring and recharging fire protection systems following an insured loss.
- d) The water used for fighting a fire in, on or exposing the insured property.
- e) Temporary security for a period of time not to exceed 30 consecutive days due to actual, or to prevent immediately impending, insured physical loss or damage to such insured property.

This coverage does not cover costs incurred for actions to temporarily protect or preserve insured property from actual, or to prevent immediately impending, physical loss or damage covered by the Terrorism coverage of this Policy.

This coverage is subject to the deductible provisions that would have applied had the physical loss or damage happened.

26. Tax Treatment

This Policy covers the increased tax liability as a direct result of insured physical loss or damage to insured property. When such tax liability is greater than the tax liability that would have been incurred had there been no such loss or damage, then this Policy will cover only the increased tax liability for the profit portion of a loss payment under this Policy involving finished stock manufactured by the Insured and/or the profit portion of the Business Interruption loss payment.

27. Tenants Legal Liability

This Policy covers direct physical loss or damage, caused by or resulting from **named perils**, to that part of buildings or others, including permanently attached building fixtures, leased to and occupied by the Insured at a **described location** to the extent of the Insured's legal liability for such loss or damage.

This coverage also includes the following:

- a) The reasonable expenses of defending the Insured against only that part of any suit alleging the Insured's legal liability for such physical loss or damage;
- b) The reasonable expenses incurred by this Company, this Company's proportionate share of costs taxed against the Insured in any such suit, and this Company's proportionate share of interest accruing after entry of judgment until this Company has paid, tendered or deposited into court its proportionate share of such judgment; and
- c) The reasonable expenses, other than loss of earnings, incurred at this Company's request.

This coverage does not include:

- a) That part of any settlement by the Insured to which this Company has not given its prior written consent; or
- b) Any legal liability for loss or damage assumed by the Insured under any contract or agreement, whether oral or written, expressed or implied.

Additional Provisions: This Company may:

- a) Investigate, negotiate and settle any claim or suit as this Company deems expedient and will not be prejudiced under this coverage for failure to settle for any amount within the Company's applicable limit of liability.

- b) Pay, tender or deposit into court the Company's applicable limit of liability, less any expenses incurred by the Company, in full satisfaction of its liability under this coverage, and thereby terminate any further liability for any expense amount described in paragraphs a, b or c above.

Tenants Legal Liability Exclusion: As respects Tenants Legal Liability, the following additional exclusions apply:

This Policy excludes loss or damage directly or indirectly caused by or resulting from **terrorism** regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any other sequence to the loss.

28. Terrorism

This Policy covers physical loss or damage caused by or resulting from **terrorism** only at a **described location**.

Any act which satisfies the definition of **terrorism** shall not be considered to be vandalism, malicious mischief, riot, civil commotion or any other risk of physical loss or damage covered elsewhere in this Policy.

Amounts recoverable under this coverage are excluded from coverage elsewhere in this Policy.

This coverage does not cover loss or damage which also comes within the terms of either Group I Item 2a or Group I Item 2c of the Exclusions clause of this Policy.

This coverage does not in any event cover loss or damage directly or indirectly caused by or resulting from any of the following, regardless of any other cause or event, whether or not insured under this Policy contributing concurrently or in any other sequence to the loss:

- a) That involves the use, release or escape of nuclear materials or that directly or indirectly results in nuclear reaction or radiation or radioactive contamination or that involves the discharge, explosion or use of any nuclear device, weapon or material employing or involving nuclear fission, fusion or radioactive force, whether in time of peace or war and regardless of who commits the act; or
- b) That is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
- c) In which pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials; or
- d) That involves action taken to prevent, defend against, respond to or retaliate against **terrorism** or suspected **terrorism**.

29. Transit

This Policy covers the following insured personal property:

- a) Owned by the Insured;
- b) Of others to the extent of the Insured's interest or legal liability while in the actual or constructive custody of the Insured;
- c) Shipped to others on Free on Board (FOB), Cost and Freight (C&F) or similar terms. The Insured's contingent interest in such shipments is admitted,
- d) Of others sold by the Insured, that the Insured has agreed prior to the loss to insure during course of delivery including:

- i) When shipped by the Insured's direct contract service provider or by the Insured's direct contract manufacturer to the Insured or to the Insured's customer;
- ii) When shipped by the Insured's customer to the Insured or to the Insured's contract service provider or to the Insured's contract manufacturer,

While in transit within the Policy's Territory:

- a) From the time the property leaves the original point of shipment for transit; and
- b) Continuously in the due course of transit until delivered at the destination.
- c) Coverage on export shipments not insured under ocean cargo policies does not extend beyond the time when the property is loaded on board overseas vessels or aircraft. Coverage on import shipments not insured under ocean cargo policies does not attach until after discharge from overseas vessels or aircraft.

This coverage:

- a) Insures physical loss or damage caused by or resulting from:
 - i) Unintentional acceptance of fraudulent bills of lading, shipping or messenger receipts by the Insured or the Insured's agent, customer or consignee.
 - ii) Any unauthorized person(s) representing themselves to be the proper party(ies) to receive the property for shipment or to accept it for delivery.
- b) Covers general average and salvage charges on shipments covered while waterborne.

Additional Conditions:

- a) Permission is granted to the Insured, without prejudice to this insurance, to accept ordinary bills of lading used by carriers, including:
 - i) Released and/or undervalued bills of lading; or
 - ii) Shipping or messenger receipts.
- b) The Insured may waive subrogation against railroads under sidetrack agreements.
- c) The Insured may not enter into any special agreement with carriers releasing them from their common law or statutory liability.
- d) This coverage shall not inure directly or indirectly to the benefit of any carrier or bailee.

Transit Exclusions: As respects Transit, the following additional exclusions apply:

This Policy excludes:

- a) Property shipped by mail.
- b) Shipments by air unless made by regularly scheduled airlines.
- c) Waterborne shipments via the Panama Canal or waterborne shipments to and from:
 - i) Alaska.

- ii) Hawaii.
- iii) Commonwealth of Puerto Rico.
- iv) Virgin Islands.
- d) Any transporting vehicle.
- e) Property of others, including the Insured's legal liability, hauled on vehicles owned, leased or operated by the Insured when acting as a common or contract carrier.
- f) Property insured under any import or export ocean marine insurance.

Transit Valuation: On property insured under this coverage, the loss amount will not exceed the following:

- a) For property shipped to or for the account of the Insured: the actual invoice to the Insured, including such costs and charges (including the commission of the Insured as selling agent) as may have accrued and become legally due on such property.
- b) For property that has been sold by the Insured and shipped to or for the account of the purchaser (if covered by this Policy), the amount of the Insured's selling invoice, including prepaid or advanced freight.
- c) For property not under invoice:
 - i) For property of the Insured, at the valuation provisions of the Policy applying at the place from which the property is being transported; or
 - ii) For other property, the **actual cash value** at point of destination on the date of loss,

Less any charges saved which would have become due and payable upon arrival at destination.

30. Unnamed Property

This Policy covers insured property anywhere within this Policy's Territory, excluding property while in transit.

Unnamed Property Exclusion: As respects Unnamed Property, the following additional exclusion applies:

This Policy excludes:

- a) **Transmission and distribution systems**, except at a premises owned, leased or rented by the Insured.

BUSINESS INTERRUPTION

The Business Interruption loss, as provided in the Business Interruption Coverage and Business Interruption Coverage Extensions of this section, is subject to all the terms and conditions of this Policy including, but not limited to, the limits of liability, deductibles and exclusions shown in the Declarations section.

A. LOSS INSURED

This Policy insures Business Interruption loss, as provided in the Business Interruption Coverage, as a direct result of physical loss or damage of the type insured:

1. To property as described elsewhere in this Policy and not otherwise excluded by this Policy;
2. Used by the Insured;
3. While at a **location** or while in transit as provided by this Policy; and
4. During the Period of Liability as described elsewhere in this Policy.

This Policy insures Business Interruption loss only to the extent it cannot be reduced through:

1. The use of any property or service owned or controlled by the Insured;
2. The use of any property or service obtainable from other sources;
3. Working extra time or overtime; or
4. The use of inventory;

All whether at a **location** or at any other premises. This Company reserves the right to take into consideration the combined operating results of all associated, affiliated or subsidiary companies of the Insured in determining the amount of loss.

In determining the amount of loss payable, this Company will consider:

1. Any amount recovered elsewhere under this Policy for loss or damage to finished goods or merchandise at selling price as having been sold to the Insured's regular customers and credited against net sales.
2. The experience of the business before and after and the probable experience during the Period of Liability. The probable experience will also consider any increase or decrease in demand for the Insured's goods or services during the Period of Liability, even if such increase or decrease is from the same event that caused physical loss or damage starting the Period of Liability.
3. The continuation of only those normal charges and expenses that would have been earned had there been no interruption of production or business operations or services.

This Policy also covers expenses reasonably and necessarily incurred by the Insured to reduce the loss otherwise payable under this Policy. The amount of such recoverable expenses will not exceed the amount by which the loss is reduced.

B. BUSINESS INTERRUPTION COVERAGE

1. Gross Earnings

The recoverable Gross Earnings loss is the actual loss sustained by the Insured of **Gross Earnings**, less all charges and expenses that do not necessarily continue, plus all other earnings derived from the operations of the business, excluding loss covered under Rental Income, during the Period of Liability.

Gross Earnings means:

The net sales value of production or business operations or services less the cost of:

- a) Raw stock;
- b) Materials and supplies; and
- c) Merchandise sold;

Used in production or business operations or services rendered by the Insured

The recoverable Gross Earnings loss payable is limited to the extent the Insured is:

- a) Wholly or partially prevented from producing goods or continuing business operations or services;
- b) Unable to make up lost production within a reasonable amount of time, not limited to the period during which production is interrupted;
- c) Unable to continue such operations or services during the Period of Liability; and
- d) Able to demonstrate a loss of sales for the production or business operations or services prevented.

2. Gross Profits

The recoverable Gross Profits loss is the actual loss sustained by the Insured of the:

- a) **Reduction in Sales**; and the
- b) **Increased Cost of Doing Business**,

Resulting from the necessary interruption of business during the Period of Liability.

As respects Gross Profits, Business Interruption Exclusion Items 2a, 2c and 3 do not apply.

For purposes of measuring the loss:

Gross Profits means:

The sum produced by adding the **Net Profit** to the **Insured Fixed Charges**. If there is no **Net Profit** the amount of all **Insured Fixed Charges** less that proportion of any loss from business operations as the amount of the **Insured Fixed Charges** bears to all fixed charges.

Increased Cost of Doing Business means:

The reasonable and necessary costs incurred to avoid or diminish a reduction in sales but not to exceed the sum produced by applying the **Rate of Gross Profit** to the amount of the reduction avoided; all less any sums saved as may cease or be reduced during the Period of Liability.

Insured Fixed Charges means:

All fixed charges unless specifically excluded in the Declarations section.

Net Profit means:

The net operating profit excluding:

- a) Capital receipts and accruals; and
- b) Outlay properly chargeable to capital;

Resulting from the business of the Insured after due provision has been made for all fixed charges and any other expenses, including depreciation, but before deduction of any taxes on profits.

Rate of Gross Profit means:

The rate of **Gross Profit** earned on **Sales** during the twelve (12) full months immediately before the date of the loss or damage to the insured property.

Reduction in Sales means:

The amount produced by applying the **Rate of Gross Profit** to the amount by which the **Sales** during the Period of Liability fall short of the **Standard Sales**.

Sales means:

The money, excluding loss covered under Rental Income, paid or payable to the Insured for:

- a) Goods sold and delivered; and
- b) Services rendered;

In the conduct of the Insured's business.

Standard Sales means:

The **Sales** during the period of the twelve (12) months immediately before the date of the loss or damage to the insured property which corresponds with the Period of Liability.

3. Rental Income

The recoverable Rental Income loss is the actual loss sustained by the Insured of the following during the Period of Liability:

- a) The fair rental value of any portion of the property occupied by the Insured;
- b) Income reasonably expected from the rentals of unoccupied or unrented portions of such property;
- c) The rental income from the rented portions of such property, according to bona fide leases, contracts or agreements, in force at the time of loss;

All less charges and expenses that do not continue.

Rental Income Exclusion: As respects Rental Income, the following additional exclusion applies:

This Policy does not insure:

- a) Any loss of rental income during any period in which the insured property would not have been rented for any reason other than an insured loss.

4. Extra Expense

The recoverable Extra Expense loss is the reasonable and necessary extra expense incurred by the Insured of the following during the Period of Liability to:

- a) Temporarily continue as close to normal the conduct of the Insured's business; and
- b) Temporarily use the property or facilities of the Insured or others;

All less any value remaining at the end of the Period of Liability for property obtained in connection with the above.

If the Insured makes claim in accordance with the terms and conditions of the BI Select clause, the Period of Liability for Extra Expense coverage will be the Period of Liability applicable to the Business Interruption Coverage option selected.

Extra Expense Exclusions: As respects Extra Expense, the following additional exclusions apply:

This Policy does not insure:

- a) Any loss of income.
- b) Expenses that usually would have been incurred in conducting the business during the same period had no physical loss or damage happened.
- c) The cost of permanent repair or replacement of property that has been damaged or destroyed.
- d) Any expense recoverable elsewhere in this Policy.

5. BI Select™

If this Policy insures Gross Earnings and Gross Profit the Insured has the option to make claim based on either:

- a) Gross Earnings; or
- b) Gross Profit.

If such claim involves more than one **location**, including interdependency at one or more **locations**, all such claims will be adjusted using the coverage option chosen above.

This option may be exercised any time prior to meeting the conditions set forth in the Settlement of Claims provisions in the Loss Adjustment and Settlement section of this Policy.

C. PERIOD OF LIABILITY

The Period of Liability for Business Interruption Coverage and Business Interruption Coverage Extensions, unless otherwise stated elsewhere in this Policy, is as follows:

The Gross Earnings, Rental Income or Extra Expense Period of Liability is:

1. The period starting from the time of physical loss or damage of the type insured; and
2. Ending when, with due diligence and dispatch,
 - a) The lost or damaged property could be repaired or replaced and made ready for production or business operations or services under the same or equivalent physical operating conditions that existed prior to the loss or damage; or
 - b) The lost or damaged property under the course of construction or renovation could be repaired or replaced to the same or equivalent degree of completion that existed prior to the loss or damage. This period of time will be applied to the level of business that would have been reasonably achieved after construction and startup would have been completed had no physical damage happened.
3. For **raw materials** or supplies, the period of time:
 - a) Resulting from the inability to procure suitable **raw materials** or supplies to replace those physically lost or damaged, but
 - b) For no more than the period of time for which such physically lost or damaged **raw materials** or supplies would have supplied production or business operating or servicing needs.

The Gross Profit Period of Liability is:

The period starting from the time of physical loss or damage of the type insured and ending no later than the period of time shown in the Declarations section during which the results of the business shall be directly affected by such damage.

Period of Liability Conditions:

The Period of Liability will not include any additional time:

1. Due to the Insured's inability to resume production or business operations or services regardless of the reason, including but not limited to:
 - a) Making change(s) to the buildings, structures or equipment, for any reason except as provided by the Demolition and Increased Cost of Construction coverage in this Policy; or
 - b) Restaffing or retraining employees. However, this item does not apply to additional time needed to train staff to use new machinery or equipment which replaces machinery or equipment that suffered insured physical loss or damage, provided that such training is completed within 90 days after the new machinery or equipment has been installed.

If two or more Periods of Liability apply such periods will not be cumulative and will not be limited by the expiration of this Policy.

D. BUSINESS INTERRUPTION EXCLUSIONS

In addition to the exclusions elsewhere in this Policy, the following exclusions apply to Business Interruption loss:

This Policy does not insure:

1. Any loss during any idle period, including but not limited to when production, operations or services or delivery or receipt of goods would cease, or would not have taken place or would have been prevented due to:
 - a) Physical loss or damage not insured by this Policy.
 - b) Planned or rescheduled shutdown.
 - c) Strike or other work stoppage.
 - d) Any other reason other than physical loss or damage insured under this Policy.
2. Any increase in loss due to:
 - a) The suspension, cancellation, or lapse of any lease, contract, license or order.
 - b) Damages for breach of contract, or for late or non-completion of orders.
 - c) Fines or penalties of any nature, except as provided by the Contractual Penalties coverage in this Policy.
 - d) Any other consequential or remote loss.
3. Any loss resulting from physical loss or damage to merchandise or finished goods valued at the regular cash selling price or the time required for their reproduction.
4. Any loss resulting from the actual cash value portion of direct physical loss or damage by fire caused by or resulting from terrorism.

E. BUSINESS INTERRUPTION COVERAGE EXTENSIONS

1. Attraction Property

This Policy covers the Business Interruption Coverage loss incurred by the Insured during the Period of Liability directly resulting from physical loss or damage of the type insured to property of the type insured that attracts business to a **described location** and is within one (1) statute mile of the **described location**.

Attraction Property Exclusion: As respects Attraction Property, the following additional exclusion applies:

This Policy does not insure loss resulting from:

- a) Physical loss or damage caused by or resulting from **terrorism**, regardless of any other cause or event, whether or not insured by this Policy, contributing concurrently or in any other sequence to loss.

2. Civil or Military Authority

This Policy covers the Business Interruption Coverage loss incurred by the Insured during the Period of Liability if an order of civil or military authority prohibits access to a **location** provided such order is the direct result of physical damage of the type insured at a **location** or within five (5) statute miles of it.

Item B. 3. of Property Excluded does not apply to this Business Interruption Coverage Extension.

The Period of Liability for this Business Interruption Coverage Extension will be:

- a) The period of time starting at the time of such order of civil or military authority, but not to exceed the number of consecutive days shown in the Declarations section of this Policy.

3. Communicable Disease - Business Interruption

If a **described location** owned, leased or rented by the Insured has the actual not suspected presence of **communicable disease** and access to such **described location** is limited, restricted or prohibited by:

- a) An order of an authorized governmental agency regulating such presence of **communicable disease**; or
- b) A decision of an Officer of the Insured as a result of such presence of **communicable disease**,

This Policy covers the Business Interruption Coverage loss incurred by the Insured during the Period of Liability at such **described location** with such presence of **communicable disease**.

This coverage is subject to the Qualifying Period in the Declarations section of this Policy.

Communicable Disease - Business Interruption Exclusions: As respects Communicable Disease - Business Interruption, the following additional exclusions apply:

This Policy does not insure loss resulting from:

- a) The enforcement of any law or ordinance with which the Insured was legally obligated to comply prior to the time of the actual spread of **communicable disease**.
- b) Loss or damage caused by or resulting from **terrorism**, regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any sequence of loss.

The Period of Liability for this Business Interruption Coverage Extension will be:

The period of time:

- a) Starting at the time of the order of the authorized governmental agency or the Officer of the Insured; but
- b) Not to exceed the time limit shown in the Limits of Liability clause in the Declarations section,

This period of time is part of and not in addition to any Period of Liability applying to any coverage provided in the Business Interruption section.

4. Computer Systems Non-Physical Damage

This Policy covers the Business Interruption Coverage loss incurred by the Insured during the Period of Liability directly resulting from:

- a) The failure of the Insured's **electronic data processing equipment or media** to operate provided that such failure is the direct result of a malicious act directed at the Named Insured; or
- b) The Insured's reasonable action to temporarily protect the Insured's **electronic data processing equipment or media** against an actual or immediately impending malicious act directed at the Named Insured, provided such action is necessary to prevent failure of the Insured's **electronic data processing equipment or media** to operate.

While anywhere within this Policy's Territory.

This coverage is subject to the Qualifying Period in the Declarations section of this Policy.

The Period of Liability for this Business Interruption Coverage Extension will be:

- a) The period of time starting when the Insured's **electronic data processing equipment or media** fails to operate and ending when, with due diligence and dispatch, the Insured's **electronic data processing equipment or media** could be restored to the same or equivalent operating condition that existed prior to the failure; and
- b) Does not include the additional time to make changes to the Insured's **electronic data processing equipment or media**.

5. Contractual Penalties

This Policy covers contractual penalties incurred by the Insured during the Period of Liability due to late or non-completion of orders as a direct result of insured physical loss or damage to property of the type insured.

This extension of coverage applies provided that such contractual penalties:

- a) Are written in the provisions of a contract prior to the time of such direct physical loss or damage, and
- b) Will be limited to the contractual sales value of such late or non-completed orders.

6. Crisis Management

This Policy covers the Business Interruption Coverage loss incurred by the Insured during the Period of Liability if an order of civil or military authority prohibits access to a **described location**, provided such order is a direct result of:

- a) A violent crime, suicide, attempted suicide or armed robbery; or
- b) A death or bodily injury caused by a **workplace accident**;

At that **described location**.

For the purpose of this Business Interruption Coverage Extension only, a violent crime, suicide, attempted suicide or armed robbery at a **described location** will be considered direct physical loss or damage insured by this Policy.

Crisis Management Exclusion: As respects Crisis Management, the following additional exclusion applies:

This Policy does not insure loss resulting from:

- a) Physical loss or damage caused by or resulting from **terrorism**, regardless of any other cause or event, whether or not insured by this Policy, contributing concurrently or in any other sequence to the loss.

The Period of Liability for this Business Interruption Coverage Extension will be:

- a) The period of time starting at the time of such order of civil or military authority, but not to exceed the number of consecutive days shown in the Declarations section of this Policy.

7. Extended Period of Liability

The Gross Earnings and Rental Income coverage is extended to cover the reduction in sales resulting from:

- a) The interruption of business as covered by Gross Earnings or Rental Income;
- b) For such additional length of time as would be required with the exercise of due diligence and dispatch to restore the Insured's business to the condition that would have existed had no loss happened; and

- c) Commencing with the date on which the liability of the Company for loss resulting from interruption of business would terminate if this Business Interruption Coverage Extension had not been included in this Policy.

However, this Business Interruption Coverage Extension does not apply to Gross Earnings or Rental Income loss resulting from physical loss or damage caused by or resulting from **terrorism**.

As respects Extended Period of Liability, Business Interruption Exclusion Item 2a does not apply.

Coverage under this Business Interruption Coverage Extension for the reduction in sales due to contract cancellation will include only those sales that would have been earned under the contract during the extended period of liability.

Coverage under this Business Interruption Coverage Extension does not apply for more than the number of consecutive days shown in the Limits of Liability clause of the Declarations section of this Policy.

8. Ingress/Egress

This Policy covers the Business Interruption Coverage loss incurred by the Insured due to the necessary interruption of the Insured's business when ingress to or egress from a **described location(s)** is physically prevented, either partially or totally, as a direct result of physical loss or damage of the type insured to property of the type insured whether or not at a **described location**.

Item B. 3. of Property Excluded does not apply to this Business Interruption Coverage Extension.

Ingress/Egress Exclusion: As respects Ingress/Egress, the following additional exclusion applies:

This Policy does not insure loss resulting from:

- a) Physical loss or damage caused by or resulting from **terrorism**, regardless of any other cause or event, whether or not insured by this Policy, contributing concurrently or in any other sequence to the loss.

9. Leasehold Interest

This Policy covers the loss incurred by the Insured of Leasehold Interest as follows:

If the lease agreement requires continuation of rent; and if the property is wholly untenable or unusable, the actual rent payable for the unexpired term of the lease; or if the property is partially untenable or unusable, the proportion of the rent payable for the unexpired term of the lease.

If the lease is cancelled by the lessor pursuant to the lease agreement or by the operation of law; the **Lease Interest** for the first three months following the loss; and the **Net Lease Interest** for the remaining unexpired term of the lease.

Leasehold Interests Exclusions: As respects Leasehold Interest, the following applies:

- a) Business Interruption Exclusions 1, 2 and 3 do not apply and the following applies instead:

This Policy does not insure any increase in loss resulting from the suspension, lapse or cancellation of any license, or from the Insured exercising an option to cancel the lease; or from any act or omission of the Insured that constitutes a default under the lease.

- b) This Policy does not insure loss directly resulting from physical loss or damage to Personal Property.

As used above, the following terms mean:

Net Lease Interest:

That sum which placed at 6 percent interest rate compounded annually would equal the Lease Interest (less any amounts otherwise payable hereunder).

Lease Interest:

The excess rent paid for the same or similar replacement property over actual rent payable plus cash bonuses or advance rent paid (including maintenance or operating charges) for each month during the unexpired term of the Insured's lease.

10. Logistics Extra Cost

This Policy covers the extra cost incurred by the Insured during the Period of Liability due to disruption of the normal movement of goods or materials:

- a) Directly between **described locations**; or
- b) Directly between a **location** and the premises of a direct supplier, direct customer or direct contract service provider to the Insured;

Provided that such disruption is a direct result of physical loss or damage of the type insured to property of the type insured within the Policy's Territory.

Item B. 3. of Property Excluded does not apply to this Business Interruption Coverage Extension.

The recoverable extra cost loss will be the reasonable and necessary extra costs incurred by the Insured of the following:

- a) Extra costs to temporarily continue as close to normal the movement of goods or materials.

Logistics Extra Cost Exclusions: As respects Logistics Extra Cost, the following shall apply:

This Policy does not insure any loss resulting from:

- a) Disruption of incoming or outgoing services consisting of electricity, gas, fuel, steam, water, refrigeration, sewerage and voice, data or video.
- b) Disruption caused by or resulting from **terrorism**, regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any other sequence to the loss.
- c) Disruption caused by physical loss or damage to personal property of the Insured while in transit.
- d) Disruption in the movement of goods or materials between the premises of a supplier, customer or contract service provider to the Insured and the premises of another supplier, customer or contract service provider to the Insured.
- e) Costs that usually would have been incurred in conducting the business during the same period had there been no disruption of normal movement of goods or materials; or
- f) Loss of income
- g) Costs of permanent repair or replacement of property that has been damaged or destroyed.

The Period of Liability for this Business Interruption Coverage Extension will be:

The period of time:

- a) Starting at the time of physical loss or damage causing the disruption of the normal movement of goods or materials; and

- b) Ending not later than when with due diligence and dispatch the normal movement of goods or materials could be resumed.

11. Off-Premises Data Services - Business Interruption

This Policy covers the Business Interruption Coverage loss incurred by the Insured during the Period of Liability at a **location of off-premises data processing or data transmission services**, when the interruption is caused by any accidental event at the facilities of the provider of such services, while anywhere within this Policy's Territory, that immediately prevents in whole or in part the delivery of such provided services. For the purposes of this Additional Coverage an accidental event to satellites will be considered an accidental event at the facilities of the provider.

This coverage is subject to the Qualifying Period in the Declarations section of this Policy.

Additional General Conditions:

- a) The Insured will immediately notify the company providing **off-premises data processing or data transmission services** of any interruption of such services.
- b) The Company will not be liable if the interruption of such services is caused directly or indirectly by the failure of the Insured to comply with the terms and conditions of any contracts the Insured has entered into for such specified services.

Coverage provided in this Extension is excluded from coverage elsewhere in this Policy.

This Extension does not cover the Business Interruption Coverage loss incurred by the Insured covered by Computer Systems Non-Physical Damage coverage as provided in this section of this Policy.

Off-Premises Data Services - Business Interruption Exclusions: As respects Off- Premises Data Services - Business Interruption, the following additional exclusions apply:

This Policy excludes loss or damage directly or indirectly caused by or resulting from **terrorism** regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any other sequence to the loss.

As used above, Period of Liability of **off-premises data processing or data transmission services**:

- a) Is the period starting with the time when an interruption of provided services happens; and ending when with due diligence and dispatch the service could be wholly restored and the **location** receiving the service could or would have resumed normal operations following the restorations of service under the same or equivalent physical and operating conditions as provided by the Period of Liability clause in this section.
- b) Is limited to only those hours during which the Insured would or could have used service(s) if it had been available.
- c) Does not extend to include the interruption of operations caused by any reason other than interruption of the provided service(s).

12. Off-Premises Service Interruption - Business Interruption

This Policy covers Business Interruption Coverage loss incurred by the Insured during the Period of Liability caused by the interruption, in whole or part, of incoming electric, gas, fuel, steam, water, refrigeration, and outgoing sewerage services at a **location**.

The interruption of such services must be by reason of any accidental event, not otherwise excluded by this Policy, at the facilities of the service provider(s) while anywhere within this Policy's Territory.

This coverage is subject to the Qualifying Period in the Declarations section of this Policy.

Additional Conditions:

This Company will not be liable for deliberate act(s) by the supplying utility to shed load to maintain system integrity.

Off-Premises Service Interruption - Business Interruption Exclusion: As respects Off-Premises Service Interruption - Business Interruption the following additional exclusions apply:

This Policy excludes loss or damage directly or indirectly caused by or resulting from **terrorism** regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any other sequence to the loss.

The Period of Liability for this Business Interruption Coverage Extension will be:

- a) The period starting with the time when an interruption of specified services happens; and
- b) Ending when with due diligence and dispatch the service could be wholly restored and the **location** receiving the service could or would have resumed normal operations under the same or equivalent physical and operating conditions. Resultant and concurrent interruptions are considered as one event.

13. Protection and Preservation of Property - Business Interruption

This Policy covers the Business Interruption Coverage loss incurred by the Insured for a period of time not to exceed 48 hours prior to and 48 hours after the Insured first taking reasonable action for the temporary protection and preservation of property insured by this Policy provided such action is necessary to prevent immediately impending insured physical loss or damage to such insured property.

This Business Interruption Coverage Extension does not cover loss sustained by the Insured to temporarily protect or preserve insured property from actual, or to prevent immediately impending, physical loss or damage covered by Terrorism coverage as provided in this Policy.

This Business Interruption Coverage Extension is subject to the deductible provisions that would have applied had the physical loss or damage happened.

14. Research and Development

Gross Earnings and Gross Profits coverages are extended to cover the actual loss sustained by the Insured of continuing fixed charges and **ordinary payroll** directly attributable to the interruption of research and development activities that in themselves would not have produced income during the Period of Liability.

The Period of Liability for this Business Interruption Coverage Extension will be:

The period of time:

- a) Starting at the time of physical loss or damage of the type insured; and
- b) Ending when the property could be repaired or replaced and made ready for operations.

15. Soft Costs

This Policy covers **soft costs** incurred by the Insured during the Period of Liability arising out of the delay in the completion of buildings and additions under construction directly resulting from physical loss or damage of the type insured to insured property under construction at **locations**.

16. Supply Chain

This Policy covers the Business Interruption Coverage loss incurred by the Insured during the Period of Liability directly resulting from physical loss or damage of the type insured to property of the type insured at the premises of any of the following within the Policy's Territory:

- a) Direct suppliers, direct customers or direct contract service providers to the Insured;
- b) Any company under any royalty, licensing fee or commission agreement with the Insured; or
- c) Any company that is a direct or indirect supplier, customer or contract service provider of those described in a) above,

But not at the premises of entities directly or indirectly supplying to or receiving from a **location** electricity, fuel, water, steam, refrigeration, sewerage, voice, data or video.

Business Interruption Coverage loss recoverable under this Business Interruption Coverage Extension is extended to include the following Business Interruption Coverage Extensions:

- a) Civil or Military Authority
- b) Crisis Management
- c) Extended Period of Liability
- d) Ingress/Egress
- e) Off-Premises Service Interruption - Business Interruption
- f) Supply Chain

Supply Chain Exclusions: As respects Supply Chain coverage, the following additional exclusion applies:

This Policy does not insure loss resulting from:

- a) Physical loss or damage caused by or resulting from **terrorism**, regardless of any other cause or event, whether or not insured by this Policy, contributing concurrently or in any other sequence to the loss.

LOSS ADJUSTMENT AND SETTLEMENT

A. ABANDONMENT

There shall be no abandonment to this Company of any property.

B. APPRAISAL

If the Insured and this Company fail to agree on the amount of loss, each will, on the written demand of either, select a competent and disinterested appraiser after:

1. The Insured has fully complied with all provisions of this Policy.
2. This Company has received a signed and sworn Proof of Loss from the Insured.

Each will notify the other of the appraiser selected within 20 days of such demand.

The appraisers will first select a competent and disinterested umpire. If the appraisers fail to agree upon an umpire within 30 days then, on the request of the Insured or this Company, the umpire will be selected by a judge of a court of record in the jurisdiction in which the appraisal is pending. The appraisers will then appraise the amount of loss, stating separately the **actual cash value** and replacement cost value as of the date of loss and the amount of loss, for each item of physical loss or damage or if, for Business Interruption loss, the amount of loss for each Business Interruption coverage of this Policy.

If the appraisers fail to agree, they will submit their differences to the umpire. An award agreed to in writing by any two will determine the amount of loss.

The Insured and this Company will each:

1. Pay its chosen appraiser; and
2. Bear equally the other expenses of the appraisal and umpire.

A demand for Appraisal shall not relieve the Insured of its continuing obligation to comply with the terms and conditions of this Policy, including as provided under Requirements in Case of Loss.

This Company will not be held to have waived any of its rights by any act relating to appraisal.

C. COLLECTION FROM OTHERS

This Company will not be liable for any loss to the extent that the Insured has collected for such loss from others.

D. COMPANY OPTION

This Company has the option to take all or any part of damaged property at the agreed or appraised value. This Company must give notice to the Insured of its intention to do so within 30 days after receipt of Proof of Loss.

E. CURRENCY FOR LOSS PAYMENT

Losses will be adjusted and paid in the currency of the United States of America, except in Canada where losses will be paid in Canadian currency, unless directed otherwise by the First Named Insured.

F. LEGAL ACTION AGAINST THIS COMPANY

No suit, action or proceeding for the recovery of any claim will be sustained in any court of law or equity unless:

1. The Insured has fully complied with all the provisions of this Policy; and
2. Legal action is started within two years after inception of the loss.

If under the insurance laws of the jurisdiction in which the property is located, such two-year limitation is invalid, then any such legal action must be started within the shortest limit of time permitted by such laws.

G. LOSS ADJUSTMENT AND PAYABLE

Loss or damage will be adjusted with the First Named Insured and payable to or as the First Named Insured directs subject to the Mortgage/Lenders Loss Payable clause in the General Conditions section of this Policy.

Additional insured interests will also be included in loss payment as their interests may appear when named as additional named insured, lender, mortgagee and/or loss payee on a Certificate of Insurance issued by this Company prior to the loss.

When named on a Certificate of Insurance issued by the Insured's broker with this Company's permission, such additional interests are added to this Policy as their interests may appear when such Certificate of Insurance is issued prior to the loss and on file with this Company. The effective date of any such interest will be the issue date of the certificate unless a later date is specified on the Certificate of Insurance. The Certificate of Insurance will not amend, extend or alter the terms, conditions, provisions and limits of this Policy.

H. OTHER INSURANCE

1. If there is any other insurance that would apply in the absence of this Policy, this Policy will apply only after such insurance whether collectible or not.
2. In no event will this Policy apply as contributing insurance.
3. The Insured is permitted to have other insurance over any limits or sublimits of liability specified elsewhere in this Policy without prejudice to this Policy. The existence of any such insurance will not reduce any limit or sublimit of liability in this Policy. Any other insurance that would have provided primary coverage in the absence of this Policy will not be considered excess.
4. The Insured is permitted to have other insurance for all, or any part, of any deductible in this Policy. The existence of such other insurance will not prejudice recovery under this Policy. If the limits of liability of such other insurance are greater than this Policy's applicable deductible, this Policy's insurance will apply only after such other insurance has been exhausted.
5. If this Policy is deemed to contribute with other insurance, the limit of liability applicable at each **location**, for the purposes of such contribution with other insurers, will be the latest amount described in this Policy or the latest **location** value on file with this Company.

I. REQUIREMENTS IN CASE OF LOSS

The Insured will:

1. Give immediate written notice to this Company of any loss.
2. Protect the property from further loss or damage.

3. Promptly separate the damaged and undamaged property; put it in the best possible order; and furnish a complete inventory of the lost, destroyed, damaged and undamaged property showing in detail the quantities, costs, **actual cash value**, replacement value and amount of loss claimed.
4. Give a signed and sworn proof of loss to the Company within 90 days after the loss, unless that time is extended in writing by this Company. The proof of loss must state the knowledge and belief of the Insured as to:
 - a) The time and origin of the loss.
 - b) The Insured's interest and that of all others in the property.
 - c) The **actual cash value** and replacement value of each item and the amount of loss to each item; all encumbrances; and all other contracts of insurance, whether valid or not, covering any of the property.
 - d) Any changes in the title, use, occupation, location, possession or exposures of the property since the effective date of this Policy.
 - e) By whom and for what purpose any **location** insured by this Policy was occupied on the date of loss, and whether or not it then stood on leased ground.
5. Include a copy of all the descriptions and schedules in all policies and, if required, provide verified plans and specifications of any buildings, fixtures, machinery or equipment destroyed or damaged.
6. Further, the Insured, will as often as may be reasonably required:
 - a) Exhibit to any person designated by the Company all that remains of any property;
 - b) Submit to examination under oath by any person designated by the Company and sign the written records of examinations; and
 - c) Produce for examination at the request of the Company:
 - i) All books of accounts, business records, bills, invoices and other vouchers; or
 - ii) Certified copies if originals are lost,

At such reasonable times and places that may be designated by the Company or its representative and permit extracts and machine copies to be made.

J. SETTLEMENT OF CLAIMS

The amount of loss for which this Company may be liable will be paid within 30 days after:

1. Proof of loss as described in this Policy is received by this Company; and
2. When a resolution of the amount of loss is made either by:
 - a) Written agreement between the Insured and this Company; or
 - b) The filing with this Company of an award as provided in the Appraisal clause of this section.

In the event of insured physical loss or damage determined by this Company's representatives to be in excess of the applicable policy deductible, this Company will advance mutually agreed-upon partial payment(s), subject to the Policy's

provisions. To obtain such partial payments, the Insured will submit a signed and sworn proof of loss as described in this Policy, with adequate supporting documentation.

K. SUBROGATION

The Insured shall cooperate in any subrogation proceedings. This Company may require from the Insured an assignment or other transfer of all rights of recovery against any party for loss to the extent of this Company's payment.

This Company will not acquire any rights of recovery that the Insured has expressly waived prior to a loss. No such waiver will affect the Insured's rights under this Policy.

Any recovery from subrogation proceedings, less costs incurred by this Company in such proceedings, will be payable to the Insured in the proportion that the amount of:

1. Any applicable deductible; and/or
2. Any provable uninsured loss,

Bears to the entire provable loss amount.

L. VALUATION

Adjustment of the physical loss amount(s) under this Policy will be as of the date of loss at the place of loss, and for no more than the interest of the Insured.

1. Adjustment of physical loss to property will be determined based on the lesser of the following unless stated otherwise below or elsewhere in this Policy:
 - a) The cost to repair.
 - b) The cost to rebuild or replace on the same site with new materials of like size, kind and quality.
 - c) The cost to rebuild, repair or replace on the same or another site, but not to exceed the size and operating capacity that existed on the date of loss.
 - d) On real property or machinery and equipment, other than stock, offered for sale on the date of the loss, the selling price.
2. On **raw materials**, supplies and merchandise not manufactured by the Insured, the replacement cost.
3. On **stock in process**, the value of **raw materials** and labor expended plus the proper proportion of overhead charges.
4. On finished goods manufactured by the Insured, the regular cash selling price, less all discounts and charges to which such finished goods would have been subject had no loss happened.
5. On exposed films, records, manuscripts and drawings that are not **valuable papers and records**, the value blank plus the cost of copying information from backup or from originals of a previous generation. These costs will not include research, engineering or any costs of restoring or recreating lost information.
6. On property that is damaged by fire and such fire is the result of **terrorism**, the **actual cash value** of the fire damage loss. Any remaining fire damage loss shall be adjusted according to the terms and conditions of the Valuation clause(s) of the Policy and shall be subject to the limit(s) of liability for Terrorism, and if stated the limit of liability for SUPPLEMENTAL UNITED STATES CERTIFIED ACT OF TERRORISM ENDORSEMENT(S), as shown in the Limits of Liability clause in the Declarations section.

7. On personal property that is part of a pair or set, and the physically damaged personal property cannot be replaced or repaired, the reduction in value of the undamaged portion of insured personal property. If settlement is based on a constructive total loss, the Insured will surrender the undamaged parts of such property to this Company.
8. On unrepairable electrical or mechanical equipment, including computer equipment, the cost to replace such equipment with equipment that is the most functionally equivalent to that damaged or destroyed, even if such equipment has technological advantages and/or represents an improvement in function and/or forms part of a program of system enhancement.
9. On property scheduled for demolition, the increased cost of demolition, if any, directly resulting from insured loss.
10. On improvements and betterments, the unamortized value of improvements and betterments, if such property is not repaired or replaced at the Insured's expense.
11. On property that is useless to the Insured, the **actual cash value**.
12. On property if not repaired, replaced or rebuilt on the same or another site within two years from the date of loss, unless such time is extended by the Company, the **actual cash value**.

The Insured may elect not to repair or replace the insured real or personal property under Item 1 above that is lost, damaged or destroyed. Loss settlement may be elected on the lesser of repair or replacement cost basis if the proceeds of such loss settlement are expended on other capital expenditures related to the Insured's operations within two years from the date of loss. As a condition of collecting under this item, such expenditure must be unplanned as of the date of loss and be made at a **described location** under this Policy. This item does not extend to Demolition and Increased Cost of Construction.

GENERAL CONDITIONS

A. APPLICATION OF POLICY TO DATE OR TIME RECOGNITION

With respect to situations caused by any **date or time recognition** problem by **electronic data processing equipment or media** (such as the so-called Year 2000 problem), this Policy applies as follows:

1. This Policy does not pay for remediation, change, correction, repair or assessment of any **date or time recognition** problem, including the Year 2000 problem, in any **electronic data processing equipment or media**, whether preventative or remedial, and whether before or after a loss, including temporary protection and preservation of property. This Policy does not pay for any business interruption loss resulting from the foregoing remediation, change, correction, repair or assessment.
2. Failure of **electronic data processing equipment or media** to correctly recognize, interpret, calculate, compare, differentiate, sequence, access or process data involving one or more dates or times, including the Year 2000, is not insured physical loss or damage. This Policy does not pay for any such incident or for any business interruption loss resulting from any such incident.

Subject to all of its terms and conditions, this Policy does pay for physical loss or damage not excluded by this Policy that results from a failure of **electronic data processing equipment or media** to correctly recognize, interpret, calculate, compare, differentiate, sequence, access or process data involving one or more dates or times, including the Year 2000. Such covered resulting physical loss or damage does not include any loss, cost or expense described in a) or b) above. If such covered resulting physical loss or damage happens, and if this Policy provides business interruption coverage, then, subject to all of its terms and conditions, this Policy also covers any insured business interruption loss directly resulting therefrom.

B. CANCELLATION/NON-RENEWAL

This Policy may be:

1. Cancelled at any time at the request of the First Named Insured by surrendering this Policy to this Company or by giving written notice to this Company stating when such cancellation will take effect; or
2. Cancelled by this Company by giving the First Named Insured not less than:
 - a) 60 days written notice of cancellation; or
 - b) 10 days written notice of cancellation if the First Named Insured fails to remit, when due, payment of premium for this Policy; or
3. Non-renewed by this Company by giving the First Named Insured not less than 60 days written notice of non-renewal.

Return of any unearned premium will be calculated on the customary short rate basis if the First Named Insured cancels and on a pro-rata basis if the Company cancels this Policy. Return of any unearned premium will be made by the Company as soon as practicable.

C. CONFORMITY TO STATUTE

Terms of this Policy that conflict with the statutes of the jurisdiction where the insured property is located, are amended to conform to such statutes.

D. FIRST NAMED INSURED

The First Named Insured shown in the Declarations section:

1. Is responsible for the payment of all premiums.
2. Will be the payee for any return premiums.
3. May authorize changes in the terms and conditions of this Policy with the consent of this Company.

E. INCREASE IN HAZARD

This Policy will not apply to any **location** where there is an increase in hazard over which the Insured has control and knowledge. Any increase in hazard at one or more **locations** will not affect coverage at other **locations** where, at the time of loss or damage, the increase in hazard does not exist.

F. INSPECTIONS

This Company, at all reasonable times, will be permitted, but will not have the duty, to inspect insured property. This Company does not address life, safety or health issues.

This Company's:

1. Right to make inspections; or
2. Making of inspections; or
3. Providing recommendations or other information in connection with any inspections,

Will not constitute an undertaking, on behalf of or for the benefit of the Insured or others.

This Company will have no liability to the Insured or any other person because of any inspection or failure to inspect.

When this Company is not providing jurisdictional inspections, the Owner/Operator has the responsibility to assure that jurisdictional inspections are performed as required, and to assure that required jurisdictional Operating Certificates are current for their pressure equipment.

G. LIBERALIZATION CLAUSE

If during the period that insurance is in force under this Policy, any filed rules or regulations affecting the same are revised by statute so as to broaden the insurance without additional premium charge, such extended or broadened insurance will inure to the benefit of the Insured within such jurisdiction, effective the date of the change specified in such statute.

H. MISREPRESENTATION AND FRAUD

This entire Policy will be void if, whether before or after a loss, an Insured has:

1. Willfully concealed or misrepresented any material fact or circumstance concerning this insurance, the subject thereof, any insurance claim, or the interest of an Insured.
2. Made any attempt to defraud this Company.
3. Made any false swearing.

I. MORTGAGEE/LENDERS LOSS PAYABLE

Loss or damage, if any, to specified property insured under this Policy shall be payable to each specified Lenders Loss Payable (hereinafter referred to as Lender) and specified Mortgagee as its interest may appear.

This insurance as to the interest of the Lender or Mortgagee shall not be invalidated by:

1. Any act or neglect of the debtor, mortgagor or owner (as the case may be) of the property.
2. Foreclosure, notice of sale or similar proceedings with respect to the property.
3. Change in the title or ownership of the property.
4. Change to a more hazardous occupancy.

The Lender or Mortgagee will notify this Company of any known change in ownership, occupancy or hazard and, within 10 days of written request by this Company, may pay the increased premium associated with such known change. If the Lender or Mortgagee fails to pay the increased premium, all coverage under this Policy will cease.

If the Insured fails to render proof of loss within the time provided in this Policy, the Lender or Mortgagee shall render proof of loss within sixty days after having knowledge of the Insured's failure in the form and manner provided by this Policy, and, further, shall be subject to the provisions of this Policy relating to Appraisal, Legal Action Against this Company, and Settlement of Claims.

If this Policy is cancelled at the request of the First Named Insured or its agent, the coverage for the interest of the Lender or Mortgagee will terminate 10 days after the Company sends to the Lender or Mortgagee written notice of cancellation, unless:

1. Sooner terminated by authorization, consent, approval, acceptance or ratification of the Insured's action by the Lender or Mortgagee, or its agent.
2. This Policy is replaced by the Insured, with a policy providing coverage for the interest of the Lender or Mortgagee, in which event coverage under this Policy with respect to such interest will terminate as of the effective date of the replacement policy, notwithstanding any other provision of this Policy.

This Company may cancel this Policy and/or the interest of the Lender or Mortgagee under this Policy, by giving the Lender or Mortgagee written notice 60 days prior to the effective date of cancellation, if cancellation is for any reason other than non-payment. If the debtor, mortgagor or owner has failed to pay any premium due under this Policy, this Company may cancel this Policy for such non-payment, but will give the Lender or Mortgagee written notice 10 days prior to the effective date of cancellation. If the Lender or Mortgagee fails to pay the premium due by the specified cancellation date, all coverage under this Policy will cease.

Whenever this Company shall pay the Lender or Mortgagee for loss or damage under this Policy and shall deny payment to the debtor, mortgagor or owner, this Company shall, to the extent of such payment, be subrogated to the rights of the Lender or Mortgagee under all collateral held to secure the debt or mortgage. No subrogation shall impair the right of the Lender or Mortgagee to recover the full amount due. At its option, this Company may pay to the Lender or Mortgagee the whole principal due on the debt or mortgage plus any accrued interest. In this event, all rights and securities will be assigned and transferred from the Lender or Mortgagee to this Company, and the remaining debt or mortgage will be paid to this Company.

This Company may invoke this Policy's Suspension clause. The suspension of insurance will apply to the interest of the Lender or Mortgagee in any machine, vessel, or part of any machine or vessel subject to the suspension. This Company will provide the Lender or Mortgagee at the last reported address a copy of the suspension notice.

All notices sent to the Lender shall be sent to its last reported address.

Other provision relating to the interests and obligations of the Lender or Mortgagee may be added to this Policy by agreement in writing.

J. POLICY MODIFICATION

This Policy contains all of the agreements between the Insured and the Company concerning this insurance. The Insured and the Company may request changes to this Policy. This Policy can be changed only by endorsements issued by the Company and made a part of this Policy.

Notice to any agent or knowledge possessed by any agent or by any other person will not:

1. Create a waiver, or change any part of this Policy; or
2. Prevent the Company from asserting any rights under the provisions of this Policy.

K. REINSTATEMENT OF LIMITS AFTER A LOSS

Except for an **annual aggregate** limit of liability, any loss or payment of any claim will not reduce the amount payable under this Policy.

L. SUSPENSION

Upon discovery of a dangerous condition, this Company may immediately suspend the **boiler and machinery** insurance with respect to any machine, vessel or part thereof by giving written notice to the Insured. The insurance that is suspended may be reinstated by this Company. The Insured will be allowed the return of the unearned portion of the premium resulting from the suspension of insurance.

M. TRANSFER OF RIGHTS AND DUTIES UNDER THIS POLICY

The Insured's rights, interests and duties under this Policy may not be transferred or assigned without this Company's written consent.

DEFINITIONS

actual cash value means the cost to repair or replace the property, on the date of the loss or damage, with material of like kind and quality, less proper deduction for obsolescence and physical depreciation.

annual aggregate means the Company's maximum amount payable during any policy year.

boiler and machinery means:

1. Direct physical loss or damage originating within:

- a)** Boilers, fired or unfired pressure vessels, vacuum vessels and pressure piping, all normally subject to vacuum or internal pressure other than static pressure of contents, excluding:
 - i)** Waste disposal piping;
 - ii)** Any piping forming part of a fire protective system;
 - iii)** Furnaces; and
 - iv)** Any water piping other than:
 - (a)** Boiler feed water piping between the feed pump or injector and the boiler;
 - (b)** Boiler condensate return piping; or
 - (c)** Water piping forming part of a refrigerating or air conditioning system used for cooling, humidifying or space heating purposes.
- b)** All mechanical, electrical, electronic or fiber optic equipment;

2. And caused by, resulting from or consisting of:

- a)** Mechanical breakdown; or
- b)** Electrical or electronic breakdown; or
- c)** Extremes or changes of temperature; or
- d)** Rupture, bursting, bulging, implosion or steam explosion.

3. boiler and machinery as used in this Policy does not mean:

Physical loss or damage caused by or resulting from any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

- a)** Combustion explosions, except from within combustion gas turbines; or
- b)** Explosions from liquids coming in contact with molten materials; or
- c)** Accidental discharge, escape, leakage, backup or overflow to the open of any material from confinement within piping, plumbing systems or tanks except from property described in Item 1a above; or
- d)** Fire, or from the use of water or other means to extinguish a fire.

communicable disease means disease which is:

1. Transmissible from human to human by direct or indirect contact with an affected individual or the individual's discharges, or
2. Legionellosis.

contaminant means anything that causes **contamination**.

contamination means any condition of property due to the actual or suspected presence of any foreign substance, impurity, pollutant, hazardous material, poison, toxin, pathogen or pathogenic organism, bacteria, virus, disease causing or illness causing agent, fungus, mold or mildew.

date or time recognition means the recognition, interpretation, calculation, comparison, differentiation, sequencing, accessing or processing of data involving one or more dates or times, including the Year 2000.

described location(s) means the locations described in the Insurance Provided clause of the Declarations section of this Policy.

earth movement means any natural or man-made earth movement, including but not limited to earthquake or landslide regardless of any other cause or event contributing concurrently or in any other sequence of loss. However, physical loss or damage by fire, explosion, sprinkler leakage or **flood** resulting from **earth movement** will not be considered to be loss by **earth movement** within the terms and conditions of this Policy.

electronic data processing equipment or media means any computer, computer system or component, hardware, network, microprocessor, microchip, integrated circuit or similar devices or components in computer or non-computer equipment, operating systems, data, programs or other software stored on electronic, electro-mechanical, electro-magnetic data processing or production equipment, whether the property of the Insured or not.

fine arts means paintings; etchings; pictures; tapestries; rare or art glass windows; valuable rugs; statuary; sculptures; antique furniture; antique jewelry; bric-a-brac; porcelains; and similar property of rarity, historical value, or artistic merit, excluding automobiles, coins, stamps, furs, jewelry, precious stones, precious metals, watercraft, aircraft, money and securities.

flood means flood; surface waters; rising waters; storm surge, sea surge, wave wash; waves; tsunamis; tide or tidal water; the release of water, the rising, overflowing or breaking of boundaries of natural or man-made bodies of water; or the spray therefrom; all whether driven by wind or not; or sewer backup resulting from any of the foregoing; regardless of any other cause or event, whether natural or man-made, contributing concurrently or in any other sequence of loss. Physical loss or damage from **flood** associated with a storm or weather disturbance whether or not identified by name by any meteorological authority, is considered to be **flood** within the terms of this Policy. However, physical loss or damage by fire, explosion or sprinkler leakage resulting from **flood** is not considered to be loss by **flood** within the terms and conditions of this Policy.

Green means products, materials, methods and processes certified by a **Green Authority** that conserve natural resources, reduce energy or water consumption, avoid toxic or other polluting emissions or otherwise minimize environmental impact.

Green Authority means an authority on **Green** buildings, products, materials, methods or processes that are certified and accepted by Leadership in Energy and Environmental Design (LEED®), Green Building Initiative Green Globes®, Energy Star Rating System or any other recognized **Green** rating system.

irreplaceable means an item which cannot be replaced with other of like kind and quality.

location means a location described in the Insurance Provided clause of the Declarations section or included as Newly Acquired Property or Unnamed Property coverages.

named perils means: fire, lightning, **wind**, hail, explosion, smoke, impact from aircraft and vehicles, objects falling from aircraft, strike, riot, civil commotion, vandalism, theft, attempted theft, sprinkler leakage or collapse of buildings.

occurrence means the sum total of all loss or damage of the type insured, including any insured Business Interruption loss, arising out of or caused by one discrete event of physical loss or damage, except as respects the following:

1. **terrorism: occurrence** will mean the sum total of all loss or damage of the type insured, including any insured Business Interruption loss, arising out of or caused by all acts of **terrorism** during a continuous period of seventy-two (72) hours.
2. **earth movement: occurrence** will mean the sum total of all loss or damage of the type insured, including any insured Business Interruption loss, arising out of or caused by all **earth movement(s)** during a continuous period of seventy-two (72) hours.

off-premises data processing or data transmission services means the storage or processing of data performed off-premises of the Insured's property, including the transmission of voice, data or video over a single, or combination of, computer or communication networks.

offshore means away from the shore but not connected to the shore by docks, piers or any other physical connection other than pipelines.

ordinary payroll means:

1. Wages of all employees except officers, executives, department managers, and employees under contract or similar key employees; and
2. Includes taxes and charges dependent on the payment of those wages.

physical loss or damage to electronic data, programs or software means the destruction, distortion or corruption of electronic data, programs or software.

production machinery and equipment means any production or process machine(s) or apparatus that processes, forms, cuts, shapes, grinds or conveys **raw materials**, materials in process or finished goods and any associated equipment utilized in production including but not limited to electrical cabling, transformers, HVAC and any equipment or apparatus that is mounted upon or used exclusively with any one or more production or process machine(s) or apparatus.

raw materials mean materials and supplies in the state in which the Insured receives them for conversion by the Insured into finished goods.

soft costs means the expenses over and above normal expenses at **locations** undergoing alterations or additions to existing property and property in the course of construction limited to the following:

1. Construction loan fees - the additional cost incurred to rearrange loans necessary for the completion of construction, repairs or reconstruction including the cost to arrange refinancing, accounting work necessary to restructure financing, legal work necessary to prepare new documents, and charges by the lenders for the extension or renewal of loans necessary.
2. Commitment fees, leasing and marketing expenses - the cost of returning any commitment fees received from prospective tenant(s) or purchaser(s), the cost of releasing and marketing of the Insured Project due to loss of tenant(s) or purchaser(s).
3. Additional fees - for architects, engineers, consultants, attorneys and accountants needed for the completion of construction, repairs or reconstruction.
4. Carrying costs - building permits, additional interest on loans, insurance premiums and property and realty taxes.

stock in process means **raw materials** or stock, which has undergone any aging, seasoning, mechanical or other process or manufacture, but which is not finished goods.

terrorism means:

1. Any act, involving the use or threat of: force, violence, dangerous conduct, interference with the operations of any business, government or other organization or institution, or any similar act,
2. When the effect or apparent purpose is:

To influence or instill fear in any government (de jure or de facto) or the public, or any segment of either; or to further, or to express support for, or opposition to, any political, religious, social, ideological or similar type of objective or position.

transmission and distribution systems means transmission and distribution systems including but not limited to electricity, gas, fuel, steam, water, refrigeration, sewerage, voice, data and video. Such systems shall include poles, towers and fixtures, overhead conductors and devices, underground and underwater conduit, underground and underwater conductors and devices, line transformers, service meters, street lighting and signal systems.

valuable papers and records means inscribed, printed or written: documents; manuscripts or records including abstracts; and, books, deeds, drawings, films, maps or mortgages, all of which must be of value to the Insured. **Valuable papers and records** are not: money, securities and stamps; converted data programs or instructions used in the Insured's data processing operations; or, materials on which data is recorded.

wind means direct action of wind including substance driven by wind. **Wind** does not mean or include anything defined as **flood** in this Policy.

workplace accident means a sudden, fortuitous event that happens during working hours and arises out of work performed in the course and the scope of employment.

Real Estate Endorsement

This Endorsement is a part of this Policy and the terms and conditions of this Policy are amended as described herein. All other terms and conditions of this Policy remain unchanged.

1. Contingent Real Property

This Policy covers Real Property that is the contractual responsibility of the Insured's lessee to insure for physical loss or damage of the type insured. Coverage under this Policy shall apply only after the coverage provided under the lessee's policy has been exhausted. The lessee's policy will be the first policy to respond in the event of loss or damage. Upon exhaustion of coverage under the lessee's policy, this Policy will cover:

- a) The difference in definitions, perils, conditions or coverages between the lessee's policy and this Policy; and
- b) The difference between the limit(s) of liability stated in the lessee's policy and this Policy;

Provided that:

- a) The coverage is provided under this Policy;
- b) The limit(s) of liability has been exhausted under the lessee's policy; and
- c) The deductible(s) applicable to such claim for loss or damage under the lessee's policy has been applied. If the deductible applied in the lessee's policy is different from the deductible that would have been applied for such loss under this Policy, then this Policy will provide for such difference in deductible.

Notwithstanding the foregoing, in the event that the lessee has not placed coverage, or has allowed a policy to lapse, be non-renewed or cancelled, then this Policy shall act as primary insurance as respects the loss or damage. In the event this Policy shall become primary insurance, each claim for loss or damage under this Policy shall be subject to the applicable deductible(s) under this Policy.

This Policy will not cover any loss due to insolvency or bankruptcy of the insurance company issuing the lessee's policy.

Any coverage provided by the lessee's policy that is not provided in this Policy does not extend to this Policy.

2. Emergency Evacuation Expense

This Policy covers the reasonable and necessary costs incurred by the Insured for the emergency evacuation and subsequent return of tenants or lawful occupants when the Insured's management, using reasonable discretion, or a civil authority orders the emergency evacuation of a **described location** as a direct result of immediately impending physical loss or damage of the type insured by this Policy.

Emergency Evacuation Expense Exclusions: As respects Emergency Evacuation Expense, the following additional exclusions apply:

This Policy excludes:

- a) The cost to move personal property of tenants or lawful occupants.
- b) The cost of temporary or permanent housing or lodging.
- c) Loss caused by or resulting from **terrorism**, regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any other sequence to the loss.

This coverage is subject to the deductible provisions that would have applied had the physical loss or damage happened.

3. Innkeeper's Liability

This Policy covers personal property of the type insured of hotel guests while at a **described location**, when such personal property is not in the Insured's custody.

4. Tenant Relocation Expense

This Policy covers the reasonable and necessary **tenant relocation expenses** incurred by the Insured to relocate and return tenants or lawful occupants to other quarters within this Policy's Territory when rented space or living quarter(s) at a **described location** are made uninhabitable as a direct result of physical loss or damage insured by this Policy.

Tenants Relocation Expense Exclusions: As respects Tenant Relocation Expense, the following additional exclusions apply:

This Policy excludes:

- a) Loss caused by the termination of a lease or other agreement.
- b) Security deposits, rent or other payments made to the landlord or lessors of the new quarters.
- c) Down payments, purchase price, legal fees and closing costs for the purchase of new quarters.
- d) The cost of permanent housing or lodging.
- e) Loss or damage caused by or resulting from **terrorism**, regardless of any other cause or event, whether or not insured by this Policy, contributing concurrently or in any other sequence to the loss.

For purposes of this coverage, **tenant relocation expenses** means the cost to:

- a) Pack and transport personal property of the type insured of tenants or lawful occupants.
- b) Store such personal property while awaiting possession of other quarters or restoration of existing quarters.
- c) Search for new quarters.
- d) Disconnect and reconnect fixtures and equipment.
- e) Re-establish new utility services less refunds from discontinued services.

CYBER EVENT ENDORSEMENT

This Endorsement is a part of this Policy and the terms and conditions of this Policy are amended as described herein. All other terms and conditions of this Policy remain unchanged.

1. Cyber Event Definition

The following definition is added to this Policy:

cyber event means any act involving the malicious or unauthorized access to, operation of, or use of **electronic data processing equipment or media**, regardless of any other cause or event contributing concurrently or in any other sequence of loss. However, physical loss or damage by fire, explosion or sprinkler leakage resulting from **cyber event** is not considered to be loss by **cyber event** within the terms and conditions of this Policy.

2. Exclusions

PROPERTY EXCLUDED item **12.** is replaced with the following:

12. Electronic data, programs or software, except when incorporated into physical goods intended to be sold as:

- a) Finished goods manufactured by the Insured; or
- b) Other merchandise not manufactured by the Insured;

or as provided by the Data Restoration coverage in this Policy.

EXCLUSIONS Group I item **4.** is replaced with the following:

- 4.** Lack of incoming electricity, fuel, water, gas, steam or refrigerant; outgoing sewerage; or incoming or outgoing voice, data or video; all when caused by an event off the **location**, except as provided by the Data Service Provider and Off-Premises Service Interruption coverages in this Policy. If the lack of such a service directly causes insured physical damage at the **location**, then only that resulting damage is insured.

3. Additional Coverages

ADDITIONAL COVERAGES items **6.** and **21.** are replaced with the following:

6. Data Restoration

This Policy covers insured **physical loss or damage to electronic data, programs or software**, while anywhere within this Policy's Territory, including while in transit.

With respect to **physical loss or damage to electronic data, programs or software** caused by or resulting from a **cyber event**, this coverage will apply when the time to recreate or restore such data, programs or software with due diligence and dispatch is in excess of the Qualifying Period shown in the Declarations section of this Policy.

This coverage includes:

- a) The cost of the following reasonable and necessary actions taken by the Insured due to actual insured **physical loss or damage to electronic data, programs or software**:
 - i) To temporarily protect and preserve insured electronic data, programs or software.

- ii) For the temporary repair of insured **physical loss or damage to electronic data, programs or software**.
- iii) To expedite the permanent repair or replacement of such damaged property.
- b) The reasonable and necessary costs incurred by the Insured to temporarily protect or preserve insured electronic data, programs or software against immediately impending insured **physical loss or damage to electronic data, programs or software**. In the event that there is no physical loss or damage, the costs covered under this item will be subject to the deductible that would have applied had there been such physical loss or damage.

This Additional Coverage excludes loss or damage to data, programs or software when incorporated into physical goods intended to be sold as:

- a) Finished goods manufactured by the Insured, or
- b) Other merchandise not manufactured by the Insured.

Data Restoration Exclusions: As respects Data Restoration, the following additional exclusion applies:

This Policy excludes the following but, if physical damage not excluded by this Policy results, then only that resulting damage is insured:

- a) Errors or omissions in processing or copying.
- b) Loss or damage to data, programs or software from errors or omissions in programming or machine instructions.
- c) Deterioration, inherent vice, vermin or wear and tear.

The Period of Liability for this Additional Coverage Extension will be:

- a) The period of time starting from the time of insured **physical loss or damage to electronic data, programs or software**; and
- b) Ending when with due diligence and dispatch the electronic data, programs or software could have been recreated or restored and made ready for production or business operations or services under the same or equivalent physical operating conditions that existed prior to the physical loss or damage.

Data Restoration Valuation: On property insured under this coverage, the loss amount will not exceed:

- a) The cost to repair, replace or restore data, programs or software including the costs to recreate, research and engineer; or
- b) The blank value of the media if not repaired, replaced or restored within two years from the date of loss.

21. Data Service Provider - Property Damage

This Policy covers insured physical loss or damage to insured property at a **location** when such physical loss or damage results from the interruption of **off-premises data processing or data transmission services** by reason of any accidental event at the facilities of the provider of such services, while anywhere within this Policy's Territory, that immediately prevents in whole or in part the delivery of such provided services.

For the purposes of this Additional Coverage an accidental event to satellites will be considered an accidental event at the facilities of the provider.

This coverage will apply when such interruption of **off-premises data processing or data transmission services** is in excess of the Qualifying Period shown in the Declarations section of this Policy. Such interruption is the time when an interruption of provided services happens; and ending when with due diligence and dispatch the service could be wholly restored.

Additional General Conditions:

- 1) The Insured will immediately notify the company providing **off-premises data processing or data transmission services** of any interruption of such services.
- 2) The Company will not be liable if the interruption of such services is caused directly or indirectly by the failure of the Insured to comply with the terms and conditions of any contracts the Insured has entered into for such specified services.

Data Service Provider - Property Damage Exclusions: As respects Data Service Provider - Property Damage, the following additional exclusion applies:

This Policy excludes loss or damage directly or indirectly caused by or resulting from **terrorism** regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any other sequence to the loss.

4. Business Interruption Coverage

BUSINESS INTERRUPTION COVERAGE EXTENSIONS items **4.** and **11.** are replaced with the following:

4. Owned Network Interruption

This Policy covers the Business Interruption Coverage loss incurred by the Insured during the Period of Liability directly resulting from:

- a) The failure of the Insured's **electronic data processing equipment or media** to operate provided that such failure is the direct result of a **cyber event** directed at the Named Insured; or
- b) The Insured's reasonable action to temporarily protect the Insured's **electronic data processing equipment or media** against an actual or immediately impending **cyber event** directed at the Named Insured, provided such action is necessary to prevent failure of the Insured's **electronic data processing equipment or media** to operate.

While anywhere within this Policy's Territory.

As respects item **a)** above, this coverage will apply when the Period of Liability below is in excess of the Qualifying Period shown in the Declarations section of this Policy.

The Period of Liability for this Business Interruption Coverage Extension will be:

- a) The period of time starting when the Insured's **electronic data processing equipment or media** fails to operate and ending when with due diligence and dispatch, the Insured's **electronic data processing equipment or media** could be restored to the same or equivalent operating condition that existed prior to the failure; and

- b) Does not include the additional time to make changes to the Insured's **electronic data processing equipment or media**.

11. Data Service Provider - Business Interruption

This Policy covers the Business Interruption Coverage loss incurred by the Insured during the Period of Liability at a **location of off-premises data processing or data transmission services**, when the interruption is caused by any accidental event at the facilities of the provider of such services, while anywhere within this Policy's Territory, that immediately prevents in whole or in part the delivery of such provided services.

For the purposes of this Additional Coverage an accidental event to satellites will be considered an accidental event at the facilities of the provider.

This coverage will apply when the Period of Liability of **off-premises data processing or data transmission services** below is in excess of the Qualifying Period shown in the Declarations section of this Policy.

Additional General Conditions:

- a) The Insured will immediately notify the company providing **off-premises data processing or data transmission services** of any interruption of such services.
- b) The Company will not be liable if the interruption of such services is caused directly or indirectly by the failure of the Insured to comply with the terms and conditions of any contracts the Insured has entered into for such specified services.

Coverage provided in this Extension is excluded from coverage elsewhere in this Policy.

This Extension does not cover the Business Interruption Coverage loss incurred by the Insured covered by Owned Network Interruption coverage as provided in this section of this Policy.

Data Service Provider - Business Interruption Exclusions: As respects Data Service Provider - Business Interruption, the following additional exclusions apply:

This Policy excludes loss or damage directly or indirectly caused by or resulting from **terrorism** regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any other sequence to the loss.

The Period of Liability for this Business Interruption Coverage Extension will be:

- a) The period starting with the time when an interruption of provided services happens; and ending when with due diligence and dispatch the service could be wholly restored and the **location** receiving the service could or would have resumed normal operations following the restorations of service under the same or equivalent physical and operating conditions as provided by the Period of Liability clause in this section.
- b) Is limited to only those hours during which the Insured would or could have used service(s) if it had been available.
- c) Does not extend to include the interruption of operations caused by any reason other than interruption of the provided service(s).

SUPPLEMENTAL UNITED STATES CERTIFIED ACT OF TERRORISM ENDORSEMENT

This Endorsement is applicable to all insured locations in the United States, its territories and possessions and the Commonwealth of Puerto Rico.

Coverage for “Certified Act of Terrorism” Under The Terrorism Risk Insurance Act of 2002, as amended.

In consideration of a premium charged of \$ 5,000, this Policy, subject to the terms and conditions therein and in this Endorsement, covers direct physical loss or damage to insured property and any resulting Business Interruption loss, as provided in the Policy, caused by or resulting from a Certified Act of Terrorism as defined herein.

Notwithstanding anything contained elsewhere in this Policy, any exclusion or limitation of terrorism in this Policy and any endorsement attached to and made a part of this Policy, is hereby amended to the effect that such exclusion or limitation does not apply to a “Certified Act of Terrorism” as defined herein. This amendment does not apply to any limit of liability for a Certified Act of Terrorism, if any, stated under any Sub-Limits clause in the Declarations section of this Policy.

With respect to any one or more Certified Act(s) of Terrorism, this Company will not pay any amounts for which the Company is not responsible under the terms of the Terrorism Risk Insurance Act of 2002 (including subsequent action of Congress pursuant to the Act) which includes a provision stating that if the aggregate insured losses exceed \$100,000,000,000 during any calendar year, neither the United States Government nor any insurer that has met its insurer deductible shall be liable for the payment of any portion of the amount of such losses that exceed \$100,000,000,000. If the aggregate insured losses for all insurers exceed \$100,000,000,000, your coverage may be reduced.

The coverage provided under this Endorsement for “Certified” losses caused by acts of terrorism will be partially reimbursed by the United States Government under a formula established by Federal Law. Under this formula, the United States pays 85% (and beginning on January 1, 2016, shall then decrease by 1 percentage point per calendar year until equal to 80 percent) of covered terrorism losses exceeding a statutorily established retention by the insurer referenced in this Policy. The premium charged for this coverage is provided above.

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

The coverage provided by this Endorsement only applies to a Certified Act of Terrorism.

Reference and Application: The following term(s) means:

Certified Act of Terrorism:

A “Certified Act of Terrorism” means any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State, and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002 as amended and extended in 2005, 2007 and in 2015. The criteria contained in that Act for a “Certified Act of Terrorism” include the following:

- a. The act resulted in aggregate losses in excess of \$5,000,000; and
- b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.



CALIFORNIA

AMENDATORY ENDORSEMENT

With respect to any insured location in the State of California this policy is amended:

CANCELLATION - The Insured may cancel this policy by returning it to the Company or by giving it written notice and stating at what future date coverage is to cease.

During the first 60 days this policy is in effect, the Company may cancel it or one or more of its parts for any reason. The Company will give the Insured notice at least 30 days before the cancellation takes effect.

After this policy has been in effect 60 days, or if it is a renewal of a policy issued by the Company it may cancel only for one or more of the following reasons:

1. The premium has not been paid when due;
2. Discovery of fraud or material misrepresentation in obtaining this insurance, or in pursuing a claim under this policy;
3. A judgment by a court or an administrative tribunal that the Insured has violated a law of this state or the United States involving an act that materially increases a hazard insured against;
4. Discovery of willful or grossly negligent acts or omissions or of violations of state laws or regulations establishing safety standards, that materially increase a hazard insured against;
5. Failure to implement reasonable loss control requirements which the Insured agreed to as a condition of the issue of this policy, or which were required in order to qualify for a particular rate or rating plan, if the failure materially increases a hazard insured against;
6. A determination by the Insurance Commissioner that the loss of, or changes in, the Company reinsurance would threaten its financial integrity or solvency;
7. A determination by the Insurance Commissioner that a continuation of this policy would place the Company in violation of the law or that continuation of coverage would threaten its solvency; or
8. A change in the Insured's activities or property which results in a materially added, increased or changed hazard that is not included in the policy.

If the premium has not been paid when due or if fraud is discovered, the Company will give the Insured notice at least 10 days before the cancellation takes effect. If the Company cancels for one of the reasons described under items 3 through 8 of this condition, the Company will give the insured notice at least 30 days before the cancellation takes effect.

The Company may cancel this policy by delivering or mailing written notice to the producer of record and to the Insured's mailing address last known to it. The notice will state the time that the cancellation is to take effect and include the reason for cancellation.

The Insured's return premium, if any, will be calculated according to the Company rules. It will be refunded to the Insured with the cancellation notice or within a reasonable time. Payment or tender of the unearned premium is not a condition of cancellation.

NONRENEWAL AND RENEWAL WITH ALTERED TERMS – The Company may elect not to renew or continue this policy by delivering or mailing written notice to the producer of record and to the Insured's mailing address last known to it. The notice will include the reason for the company action.

The Company will give the Insured notice at least 60 days, but not more than 120 days, before the expiration or anniversary date.

The Company will give the Insured the same number of days notice if it offers to renew this policy subject to a reduction of limits, elimination of coverages, an increase in deductibles, or an increase of more than 25 percent in the rate upon which the premium is based.

The Company is not required to send a notice of nonrenewal if:

1. This policy is transferred to or renewed by another insurer in its insurance group without changing policy "terms" or the rate on which the premium is based;
2. The policy has been extended for 90 days or less after notice was given in accordance with the requirements of this condition;
3. The Insured has obtained replacement coverage or have agreed in writing to obtain replacement coverage within 60 days of the termination of this policy;
4. This policy was issued for a term of 60 days or less and the Insured were notified when the policy was issued that it would not be renewed;
5. The Insured requests a change in "terms" or hazards covered within 60 days of the end of the policy period; or
6. In accordance with the requirements of this condition, the Company has made a written offer to renew the policy with changed "terms" or at a change to the rate on which the premium is based.

REQUIREMENTS IN CASE LOSS OCCURS – After a covered loss, the Company shall provide, free of charge, a complete, current copy of this policy within 30 calendar days of receipt of a request from the Insured. The time period for providing this policy may be extended by the Insurance Commissioner. An Insured who does not experience a covered loss shall, upon request, be entitled to one free copy of this policy annually. The policy provided to the Insured shall include, where applicable, the policy declarations page.

LOUISIANA

AMENDATORY ENDORSEMENT

With respect to any insured location in the State of Louisiana this policy is amended:

CHANGE IN INTRODUCTORY WORDING FOR EXCLUSIONS - The introductory wording to paragraph Exclusions, Group I is replaced by:

This policy excludes loss or damage if one or more of the following exclusions apply to the loss, regardless of other causes or events that contribute to or aggravate the loss, whether such causes or events act to produce the loss before, at the same time as, or after the excluded causes or events.

SETTLEMENT OF CLAIMS - The Company shall pay the amount of claim due any Insured within thirty (30) days after receipt of satisfactory proofs of loss from the Insured or any party in interest. Ascertainment of the loss shall be made either by agreement between the Insured and the Company expressed in writing or by the filing with the Company of an award as herein provided.

MORTGAGEE INTERESTS AND OBLIGATIONS - If loss hereunder is made payable in whole or in part, to a designated mortgagee not named herein as the Insured, such interest in this policy may be cancelled by delivering or mailing to such mortgagee a sixty (60) days' written notice of cancellation, or a ten (10) days' written notice of cancellation if cancellation is for nonpayment of premium.

The notice of cancellation shall be in writing and mailed or delivered to the named Insured at the mailing address shown on this policy and to each mortgagee, pledgee or party to have an interest in any loss which may occur under this policy.

CANCELLATION - This policy shall be canceled at any time at the request of the Insured, in which case this Company shall, upon demand and surrender of this policy, within 30 days following cancellation by the Insured pay the Insured any unearned premium computed on a pro-rata basis. This policy may be canceled at any time by this Company by giving to the Insured a thirty (30) days written notice of cancellation, or ten (10) days written notice when cancellation is for nonpayment of premium, with or without tender of the excess paid premium above the pro rata premium for the expired time which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium, if not tendered, will be refunded on demand. Upon the written request of the named insured, the insurer shall provide to the insured in writing the reasons for cancellation of the policy. There shall be no liability on the part of and no cause of action of any nature shall arise against any insurer or its agents, employees, or representatives for any action taken by them to provide the reasons for cancellation as required by this Paragraph.

If this policy has been in effect less than sixty (60) days and is not a renewal, the Company may cancel the policy by mailing or delivering a written notice to the named Insured at the address shown on this policy at least sixty (60) days before the cancellation effective date, except when cancellation is based on nonpayment of premium. Notice of cancellation based on nonpayment of premium shall be mailed or delivered at least ten (10) days prior to the effective date of cancellation.

If this policy has been in effect for sixty (60) days or more or is a renewal of a policy issued by the Company, the Company may cancel this policy only for one or more of the following reasons:

1. Nonpayment of premiums;
2. Fraud or material misrepresentation made by or with the knowledge of the named Insured in obtaining this policy, continuing this policy, or in presenting a claim under this policy;
3. Activities or omissions on the part of the named Insured which change or increase any hazard insured against, including failure to comply with loss control recommendations;

4. Change in the risk which increases the risk of loss after insurance coverage has been issued or renewed, including an increase in exposure due to regulation, legislation, or court decision;
5. Determination by the commissioner of insurance that the continuation of this policy would jeopardize the Company's solvency or would place the Company in violation of the insurance laws of this state or any other state;
6. Violation or breach by the Insured of any policy terms or conditions; or
7. Such other reasons that are approved by the commissioner of insurance.

Notices based on **2. – 7.** shall be mailed or delivered at least 30 days prior to the effective date of cancellation; notices of cancellations based upon **1.** shall be mailed or delivered at least 10 days prior to the effective date of cancellation. The notice shall state the effective date of the cancellation.

The notice of cancellation shall be in writing and mailed or delivered to the named Insured at the mailing address shown on this policy and to each mortgagee, pledgee or party to have an interest in any loss which may occur under this policy. Return of unearned premium will be calculated on a pro rata basis if the Company cancels this policy and the return will be issued within thirty (30) days.

NONRENEWAL - This Company may decide not to renew a policy if it delivers or mails to the First Named Insured at the address shown on this policy, written notice it will not renew this policy. Such notice of non-renewal shall be mailed or delivered at least 60 days before the expiration date. If the notice is mailed less than 60 days before expiration, coverage shall remain in effect under the same terms and conditions until 60 days after notice is mailed or delivered. Earned premium for any period of coverage that extends beyond the expiration date shall be considered pro rata based upon the previous year's rate. For purposes of this Section, the transfer of a policyholder between companies within the same insurance group shall not be a refusal to renew. In addition, changes in the deductible, changes in rate, changes in the amount of insurance, or reductions in policy limits or coverage shall not be refusals to renew. The notice of non-renewal will include information on losses of the Insured for the time period this policy has been in force within, but not to exceed, the last 3 years of coverage. Notice of non-renewal shall not be required if this Company or a company within the same insurance group has offered to issue a renewal policy, or where the Named Insured has obtained replacement coverage or has agreed in writing to obtain replacement coverage.

If this Company provides the notice described in La. R.S. 22:1267 and thereafter this Company extends this policy for 90 days or less, an additional notice of non-renewal is not required with respect to the extension.

SUBROGATION - The Insured is required to cooperate in any subrogation proceedings. The Company may require from the Insured an assignment or other transfer of rights of recovery against any party for loss to the extent of the company's payment. However, the Company's right of recovery is subordinate to the Insured's right to be fully compensated. The Company may be reimbursed for its recovery expenses incurred in recovering property that was the subject of a loss, provided the Insured is first made whole.

CONDOMINIUMS – If this policy insures condominiums the following shall apply:

The property insurance shall insure all common elements and units against all risks of direct physical loss.

The Company waives its right to subrogation under this policy against any unit owner or member of their household.

No act or omission by any unit owner, unless they are acting within the scope of their authority on behalf of the association, will void the policy or be a condition of recovery.

This policy is primary insurance and is not contributing with any other policy that might exist at the time of loss in the name of any unit owner.

A loss covered by the policy shall be payable to any insurance trustee designated for that purpose or to the association, and not to the mortgagee.

The Company shall issue certificates of insurance upon the request of any unit owner or mortgagee and the insurance may not be cancelled until sixty (60) days after notice has been mailed to the association and each unit owner or mortgagee to whom a certificate has been issued.

MISREPRESENTATION AND FRAUD – This entire policy will be void if the Insured has committed fraud or has committed misrepresentation with the intent to deceive when applying for insurance or during negotiation for this policy.

If a claim is fraudulent, this policy may be cancelled and coverage for the fraudulent claim denied. Coverage for legitimate claims will be provided until cancellation is effective.

APPRAISAL – If the Insured and this Company fail to agree on the amount of loss, each may, on the agreement of both, select a competent and disinterested appraiser:

Provided the Insured has fully complied with all provisions of this policy, including Requirements in Case of Loss; and

After receipt of proof of loss by this Company.

Each will notify the other of the appraiser selected within 20 days of such demand. The appraisers will first select a competent and disinterested umpire. If the appraisers fail to agree upon an umpire within 15 days then, on the request of the Insured or this Company, the umpire will be selected by a judge of a court of record in the state in which the property covered is located. The appraisers will then appraise the amount of loss, stating separately the actual cash value and replacement cost value as of the date of loss and the amount of loss. If the appraisers fail to agree, they will submit their differences to the umpire. An award agreed to in writing by any two may determine the amount of loss but does not deprive the Insured the right to seek judicial resolution of the dispute. The Insured and the Company will each:

Pay its chosen appraiser; and

Bear equally the other expenses of the appraisal and umpire.

PREMIUMS – No premiums will be payable to the Company when the First Named Insured receives a notice of an injunction or of an order of rehabilitation or liquidation applicable to the Company under the provisions of the Louisiana Insurance Laws. The Company will not cancel this policy for nonpayment of premium when the payment of such premium is made to the commissioner of insurance as specified by the provisions of the Louisiana Insurance Laws.

WAR EXCLUSION – Under Exclusions, Group I, exclusion 2. a. is replaced by the following:

2. a. Warlike action including hindering, combating, or defending against an actual, impending or expected attack by any:

- i) Government or sovereign power (de jure or de facto);
- ii) Military, naval or air forces; or,
- iii) Agent or authority of any party specified in (i) or (ii) above.

REQUIREMENTS IN CASE OF LOSS– This provision is amended by the addition of the following wording:

For insured losses that arose due to a catastrophic event for which a state of disaster or emergency was declared pursuant to law by civil officials, for those areas within the declaration, the time limit for the submission of proof of loss shall be not less than 180 days. The time limit shall not commence while there is a declaration of emergency in existence and civil authorities are denying the Insured access to the insured location.

LEGAL ACTION AGAINST THIS COMPANY – This provision is amended by the addition of the following wording:

No suit, action or proceeding for the recovery of any claim will be sustained in any court of law or equity unless:

The Insured has complied with the provisions of this policy; and Legal action is started:

- a. Within twenty-four (24) months after inception of the loss; or
- b. The shortest limit of time permitted by the laws of the jurisdiction in which the property is located.

DEFINITIONS – The following definitions are replaced with:

Contamination: means a contamination incident meaning the emission, release, discharge, or escape of pollutants into or upon the land, atmosphere, or any watercourse or body of water, if such emission, release, discharge or escape of **contaminants** results.

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

The following definition is added:

Fungi means: fungus, including but not limited to mildew and mold; protist, including but not limited to algae and slime molds; wet rot; dry rot; or chemical matter, or compound produced or released by a fungus, a protist, wet rot, or dry rot. Protist means any of the organisms of the kingdom Protista, which includes protozoans, slime molds, and certain algae.

Contamination - Wherever used in this Policy, any reference to ‘**contamination**’ is replaced with ‘**contamination, fungi or bacteria**’.

COMPANY ORGANIZATION – Affiliated FM Insurance Company is a stock insurance company.



OREGON

AMENDATORY ENDORSEMENT

With respect to any insured location in the State of Oregon this policy is amended:

CANCELLATION - This policy shall be cancelled at any time at the request of the Insured, in which case the Company shall, upon demand and surrender of the policy, refund the excess of paid premium above the customary short rates for the expired time.

The effective date of cancellation for cause is no less than 10 working days after the insured receives notice. A policy in effect for 60 or more days may be cancelled prior to policy expiration only for specified reasons:

- a) Nonpayment of premium.
- b) Fraud or material misrepresentation made by or with the knowledge of the named insured in obtaining the policy, continuing the policy, or in presenting a claim under the policy.
- c) Substantial increase in the risk of loss after insurance coverage has been issued or renewed, including but not limited to an increase in exposure due to rules, legislation or court decision.
- d) Failure to comply with reasonable loss-control recommendations.
- e) Substantial breach of contractual duties, conditions, or warranties.
- f) Determination that the continuation of a line of insurance or class of business will jeopardize a company's solvency, or will place the insurer in violation of the insurance laws of Oregon or any other state.
- g) Loss or decrease in reinsurance covering the risk.
- h) Any other reason approved by the director by rule.

MIDTERM CANCELLATION - This policy may be cancelled by the Company on grounds stated in this policy which pertain to the following: failure to pay a premium when due; material representation; substantial change in the risk assumed, except to the extent that the Company should reasonably have foreseen the change or contemplated the risk in writing the contract; or substantial breaches of contractual duties, conditions or warranties.

Notice of cancellation by the Company may be made with or without tender of the excess of paid premium above the pro rata premium for the expired time and the notice shall state that the excess, if not tendered with the cancellation, will be refunded on demand.

This policy may be cancelled by the Company if this policy has been in effect less than 60 days at the time the notice of cancellation is mailed and delivered and is a policy that has not been previously reviewed. Cancellation is not effective until at least 30 days after the First Class mailing or delivery of a written notice to the Insured.

ANNIVERSARY CANCELLATION - This policy may be issued for a term longer than one year or for an indefinite term with a clause providing for cancellation by the Company by giving notice 30 days prior to any anniversary date, as provided in the following paragraph.

NON-RENEWAL - Subject to the Midterm Cancellation and the Anniversary Cancellation paragraphs, the Company will be expected to renew this policy, unless at least 30 days prior to the expiration provided in this policy a notice of intention not to renew this policy beyond the agreed expiration date is mailed or delivered to the Insured and if one exists, the agent.

Notice of cancellation or non-renewal is not effective unless the notice contains adequate instructions to the Insured and if one exists, the agent, for applying the insurance through a risk sharing plan under ORS Chapters 656 or 735, if a risk sharing plan exists under ORS Chapters 656 or 735 for the kind of coverage being cancelled or non-renewed.

REQUIREMENTS IN CASE OF LOSS – The Insured will give a signed and sworn proof of loss to the Company within 90 days after receipt of proof of loss forms, unless that time is extended in writing by this Company.

TENNESSEE**AMENDATORY ENDORSEMENT**

With respect to any insured location in the State Tennessee of this policy is amended:

CANCELLATION– The Insured may cancel this policy by returning the policy to the Company or by giving the Company written notice stating at what future date the coverage is to cease. If the policy has been in effect less than 60 days the company may cancel for any reason and must give the Named Insured at least 10 days written notice at the address shown in the policy before cancellation is effective and state the reason for cancellation.

If this policy has been in effect 60 days or more or if it is a renewal of a policy issued by the Company effective immediately, it may cancel this policy only on its annual anniversary date unless one or more of the following reasons apply:

1. Nonpayment of premium, including nonpayment of any additional premiums, calculated in accordance with the current rating manual of the insurer, justified by a physical change in the insured property or a change in its occupancy or use.
2. Conviction of the Named Insured by a crime having as one of its necessary elements an act increasing any hazard insured against.
3. Discovery of fraud or material misrepresentation on the part of either of the following:
 - a. The Named Insured or his representative in obtaining the insurance; or
 - b. The Named Insured in pursuing a claim under the policy.
4. Failure to comply with written loss control recommendations.
5. Material change in the risk which increases the risk of loss after insurance coverage has been issued or renewed.
6. Determination by the commissioner that the continuation of the policy would jeopardize the company solvency or would place it in violation of the insurance laws of this state or any other state.
7. Violation or breach by the insured of any policy terms or conditions.
8. Such other reasons that are approved by the commissioner.

The Company will give the Named Insured at the address shown in the policy, written notice of cancellation at least 10 days before cancellation is to take effect. The Company notice will state the reason for cancellation.

NONRENEWAL - If the Company decides not to renew this policy, it will mail or deliver to the Named Insured at the address shown in the policy, and their agent, its notice of nonrenewal at least 60 days before the end of the policy period or anniversary date. Notice of nonrenewal is not required if the Company has offered to issue a renewal policy, or the Named Insured has obtained replacement coverage or have agreed in writing to obtain replacement coverage.

If the Company decides to renew this policy subject to:

1. An increase in premium rates or factors in excess of 25%; OR
2. Reduction of limits or elimination of coverages;

The Company will give notice stating the new terms at least 60 days prior to the expiration date. The notice will be mailed or delivered to the Named Insured at the address on the policy and to the agent.

WASHINGTON

AMENDATORY ENDORSEMENT

With respect to any insured location in the State of Washington this policy is amended:

EXCLUSIONS is deleted. The following is provided to replace it:

GROUP I This policy excludes loss or damage arising out of:

1. Nuclear reaction or nuclear radiation or radioactive contamination. However:
 - a) If physical damage by fire or sprinkler leakage results, then only that resulting damage is insured but not including any loss or damage due to nuclear reaction or nuclear radiation or radioactive contamination.
 - b) This policy does insure against physical loss or damage directly caused by sudden and accidental radioactive contamination, including resultant radiation damage, from material used or stored or from processes conducted at a **location**, provided that at the time of such loss or damage there is neither a nuclear reactor nor any new or used nuclear fuel at the **location**. This coverage does not apply to any act, loss or damage excluded in Group I Item 2f of this Exclusions clause.

This exclusion Group I Item 1 and the exceptions in Group I Item 1a and Group I Item 1b above do not apply to any act, loss or damage which also comes within the terms of Group I Item 2b of this Exclusions clause.

2.
 - a) Hostile or warlike action in time of peace or war, including action in hindering, combating, or defending against an actual, impending or expected attack by any:
 - i) Government or sovereign power (de jure or de facto);
 - ii) Military, naval or air forces; or,
 - iii) Agent or authority of any party specified in i) or ii) above.
 - b) Discharge, explosion, or use of any nuclear device, weapon, or material employing or involving nuclear fission, fusion, or radioactive force, whether in time of peace or war, and regardless of who commits the act.
 - c) Insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating, or defending against such an event.
 - d) Seizure or destruction under quarantine or customs regulation, or confiscation by order of government or public authority.
 - e) Risks of contraband or illegal transportation or trade.
 - f) **Terrorism**, including action taken to prevent, defend against, respond to or retaliate against **terrorism** or suspected **terrorism**, except to the extent provided in the Terrorism coverage of this Policy. However, if direct physical loss or damage by fire results from any of these acts (unless committed by or on behalf of the insured), then this policy covers only to the extent the **actual cash value** of the resulting direct loss or damage by fire to insured property. This coverage exception for such resulting fire loss or damage does not apply to:

- i) Direct loss or damage by fire which results from any other applicable exclusion in the policy, including the discharge, explosion or use of any nuclear device, weapon or material employing or involving nuclear fission, fusion or radioactive force, whether in time of peace or war and regardless of who commits the act.
- ii) Any coverage provided in any Business Interruption section of this Policy, or to any other coverages provided by this policy.

Any act which satisfies the definition of **terrorism** shall not be considered to be vandalism, malicious mischief, riot, civil commotion, or any other risk of physical loss or damage which may be covered elsewhere in this policy.

If any act which satisfies the definition of **terrorism** also comes within the terms of Group I Item 2a of this Exclusions clause, then Group I Item 2a applies in place of this Group I Item 2f exclusion.

If any act which satisfies the definition of **terrorism** also comes within the terms of Group I Item 2b of this Exclusions clause, then Group I Item 2b of this Exclusions clause applies in place of this Group I Item 2f exclusion.

If any act which satisfies the definition of **terrorism** also comes within the terms of Group I Item 2c of this Exclusions clause then Group I Item 2c of this Exclusions clause applies in place of this Group I Item 2f exclusion.

If any act excluded herein involves nuclear reaction, nuclear radiation or radioactive contamination, this Group I Item 2f exclusion applies in place of Group I Item 1 of this Exclusions clause.

All whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate or remote.

- 3. **Earth movement**, except as otherwise provided this Policy.
- 4. **Flood**, except as otherwise provided in this Policy.
- 5. Seepage or Influx of water from natural underground sources below the surface of the ground.
- 6. Loss of market; loss of use; damage or deterioration arising from any delay, whether such delay is caused by a peril insured against or otherwise; loss caused by any legal proceeding.
- 7. The lack of power or other incoming service supplied from off the **location**. If direct physical loss or damage insured by this policy results to insured property on the described location, the resulting damage is covered.
- 8. Indirect or remote loss.

GROUP II This policy excludes loss or damage caused by any of the following excluded events as set forth in 1 through 12 below. Loss or damage will be considered to have been caused by an excluded event if that event:

- i. Directly and solely results in loss or damage; or
 - ii. Initiates a sequence of events that results in loss or damage, regardless of the nature of any intermediate or final event in that sequence.
- 1. a) Misappropriation;
 - b) Conversion;

- c) Infidelity; or
- d) Any dishonest act;

Whether committed alone or in collusion with others at any time, on the part of the Insured or any additional interest, employees, directors, officers, or agents of the Insured, or any person to whom the property may be entrusted (bailees for hire excepted). A willful act of destruction committed by employees of the Insured or others listed above, without the knowledge of the Insured, resulting in physical damage, is covered. Such coverage does not apply to any act excluded in Group I Item 2f of this Exclusions clause. However, theft by employees of the Insured or others listed above is not covered.

This exclusion does not apply to an innocent coinsured.

- 2. a) Unexplained loss, mysterious disappearance, or loss or shortage disclosed on taking inventory; except that this exclusion will not apply to property while in the custody of any Bailee.
- b) The voluntary parting with title or possession of property if induced by any fraudulent act or by false pretense.

This exclusion does not apply to coverage provided in ADDITIONAL PROPERTY DAMAGE COVERAGE, Transit.

- 3. a) Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.
- b) Faulty, inadequate, or defective:
 - i) Planning, zoning, development, surveying, siting;
 - ii) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
 - iii) Materials used in repair, construction, renovation or remodeling; or
 - iv) Maintenance;

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

- 4. Wear and tear, deterioration, depletion, rust, corrosion, erosion, inherent vice, latent defect.
 - 5. Loss attributable to manufacturing or processing operations which result in damage to stock or materials while such stock or materials are being processed, manufactured, tested, or otherwise being worked upon.
 - 6. Changes in temperature; dampness or dryness;
- All whether atmospheric or not.
- Except damage to fire protective equipment and machinery or equipment caused by changes in temperature.
- 7. Shrinkage; evaporation; loss of weight.
 - 8. Change in color, flavor, texture or finish.
 - 9. Vermin or insects.

- 10. **Contamination**, and any cost due to **contamination** including the inability to use or occupy property or any cost of making property safe or suitable for use or occupancy; nor will the foregoing constitute direct physical loss or damage insured by this policy. This exclusion does not apply to radioactive contamination which is excluded in Group I Item 1 of this Exclusions clause.

11. Settling, cracking, shrinkage, bulging, or expansion of:

- a) Foundations,
- b) Walls.
- c) Floors.
- d) Roofs.
- e) Ceilings.

12. Exposure to rain, sleet, snow, sand or dust to personal property in the open.

With respect to 3 through 12 above, if loss or damage not excluded results, then that resulting loss or damage is covered.

Other Insurance is deleted and replaced with the following:

If there is other insurance covering the same loss or damage that is covered:

- a) Under this policy; or
- b) Any other policy;

Then this insurance will apply only as pro rata so that this Company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

ADDITIONAL PROPERTY DAMAGE COVERAGE Terrorism: The following paragraph:

This coverage does not in any event cover loss or damage directly or indirectly caused by or resulting from any of the following, regardless of any other cause or event, whether or not insured under this policy contributing concurrently or in any other sequence to the loss:

is replaced by the following:

This Additional Property Damage coverage excludes loss or damage caused by any of the following excluded events. Loss or damage will be considered to have been caused by an excluded event if that event:

- i. Directly and solely results in loss or damage; or
- ii. Initiates a sequence of events that results in loss or damage, regardless of the nature of any intermediate or final event in that sequence

Wherever used in this Policy, the following paragraph:

This Policy excludes loss or damage directly or indirectly caused by or resulting from the following regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any other sequence to the loss:

is replaced by the following:

This Policy excludes loss or damage caused by any of the following excluded events. Loss or damage will be considered to have been caused by an excluded event if the occurrence of that event:

- i. Directly and solely results in loss or damage; or
- ii. Initiates a sequence of events that results in loss or damage, regardless of the nature of any intermediate or final event in that sequence:

Wherever used in this Policy, the following paragraph:

Physical loss or damage caused by or resulting from **terrorism**, regardless of any other cause or event, whether or not insured by this Policy, contributing concurrently or in any other sequence to loss.

is replaced by the following:

Physical loss or damage caused by **terrorism**. Loss or damage will be considered to have been caused by **terrorism** if the occurrence of **terrorism**:

- i. Directly and solely results in loss or damage; or
- ii. Initiates a sequence of events that results in loss or damage, regardless of the nature of any intermediate or final event in that sequence:

Wherever used in this Policy, the following paragraph:

Loss caused by or resulting from **terrorism**, regardless of any other cause or event, whether or not insured by this Policy, contributing concurrently or in any other sequence to loss.

is replaced by the following:

Loss caused by **terrorism**. Loss will be considered to have been caused by **terrorism** if the occurrence of **terrorism**:

- i. Directly and solely results in loss; or
- ii. Initiates a sequence of events that results in loss, regardless of the nature of any intermediate or final event in that sequence:

Wherever used in this Policy, the following paragraph:

Loss or damage caused by or resulting from **terrorism**, regardless of any other cause or event, whether or not insured by this Policy, contributing concurrently or in any other sequence to loss.

is replaced by the following:

Loss or damage caused by **terrorism**. Loss or damage will be considered to have been caused by **terrorism** if the occurrence of **terrorism**:

- i. Directly and solely results in loss or damage; or
- ii. Initiates a sequence of events that results in loss or damage, regardless of the nature of any intermediate or final event in that sequence:

In Logistics Extra Cost, the following paragraph:

Disruption caused by or resulting from **terrorism**, regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any other sequence to the loss.

is replaced by the following:

Disruption caused by or resulting from **terrorism**. Loss or damage will be considered to have been caused by **terrorism** if the occurrence of **terrorism**:

- i. Directly and solely results in loss or damage; or
- ii. Initiates a sequence of events that results in loss or damage, regardless of the nature of any intermediate or final event in that sequence.

In the Definition of Boiler and Machinery, the following paragraph:

Physical loss or damage caused by or resulting from any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

is replaced by the following:

Physical loss or damage caused by any of the following events. Loss or damage will be considered to have been caused by one of the following events if the occurrence of that event:

- i. Directly and solely results in loss or damage; or
- ii. Initiates a sequence of events that results in loss or damage, regardless of the nature of any intermediate or final event in that sequence:

The definitions for **flood** and **earth movement** are replaced by the following:

earth movement means any natural or man-made earth movement including, but not limited to earthquake or landslide, which directly and solely results in loss or damage, or which initiates a sequence of events that results in loss or damage, regardless of the nature of any intermediate or final event in the sequence. However, physical loss or damage by fire, explosion, sprinkler leakage, or **flood** resulting from **earth movement** will not be considered to be loss by **earth movement** within the terms and conditions of this Policy.

flood means flood; surface waters; rising waters; storm surge, sea surge, wave wash; waves; tsunami; tide or tidal water; the release of water, the rising, overflowing or breaking of boundaries of natural or man-made bodies of water; or the spray therefrom; all whether driven by wind or not; or sewer back-up resulting from any of the foregoing which directly and solely results in loss or damage, or which initiates a sequence of events that results in loss or damage, regardless of the nature of any intermediate or final event in the sequence. Physical loss or damage from **flood** associated with a storm or weather disturbance whether or not identified by name by any meteorological authority, is considered to be **flood** within the terms of this Policy. However, physical loss or damage by fire, explosion or sprinkler leakage resulting from **flood** is not considered to be loss by **flood** within the terms and conditions of this Policy.

CANCELLATION/NON-RENEWAL is replaced with the following:

a) The first named Insured may cancel this policy or binder at any time by:

1) Written notice of cancellation to the Company or producer by mail, fax or e-mail;

2) Surrendering the policy to the Company;

- 3) Mailing or delivering to the Company advance written notice of cancellation;
- 4) Verbal notice of cancellation to the Company or producer.

And after receiving notice, the Company must accept and promptly cancel the policy or any binder issued as evidence of coverage effective the later of:

- 1) The date notice is received; or
- 2) The date the Insured requests cancellation.

b) Cancellation for Nonpayment of Premium:

If the Insured fails to discharge when due, any of his obligations in connection with the payment of premiums or any installment of such premium, whether payable directly to this Company or its agent, this policy may be cancelled by this Company by mailing to the Insured at the last address known by the Company or at the last address shown by the Company's records, written notice of cancellation at least 10 days prior to the effective date of cancellation.

c) Cancellation for a reason other than Nonpayment of Premium:

- 1) This policy may be cancelled by this Company, for any reason other than nonpayment of premium, except as provided in 2) below, by mailing to the Insured at the last address known by the Company or at the last address shown by the Company's records, written notice of cancellation containing the reason for cancellation at least 45 days prior to the effective date of cancellation. The pro rata unearned premium, if any, will be refunded as soon as practicable following such cancellation
- 2) A fire insurance policy may be cancelled by this Company by mailing to the Insured, at the last address known by this Company or at the last address shown by the Company's records, written notice of cancellation containing the reason for cancellation at least 5 days prior to the effective date of cancellation for any structure where two or more of the following conditions exist:
 - (a) Without reasonable explanation, the structure is unoccupied for more than sixty consecutive days, or in which at least 65% of the rental units are unoccupied for more than 120 consecutive days unless the structure is maintained for seasonal occupancy or is under construction or repair;
 - (b) Without reasonable explanation, progress toward completion of permanent repairs to the structure has not occurred within 60 days after receipt of funds following satisfactory adjustment or adjudication of loss resulting from a fire;
 - (c) Because of its physical condition, the structure is in danger of collapse;
 - (d) Because of its physical condition, a vacating or demolition order has been issued for the structure, or it has been declared unsafe in accordance with applicable law;
 - (e) Fixed and salvageable items have been removed from the structure, indicating an intent to vacate the structure;
 - (f) Without reasonable explanation, heat, water, sewer, and electricity are not furnished for the structure for 60 consecutive days; and
 - (g) The structure is not maintained in a substantial compliance with fire, safety and building codes.

- d) This Company will also mail to any mortgagee or other person shown in this policy with an interest in any loss which may occur to the property at their last address known by the Company or at their last address shown by the Company's records, written notice of cancellation, containing the reason for cancellation for any reason, at least 45 days prior to the effective date of cancellation.
- e) **Nonrenewal** - This Company will have to renew the contract unless:
 - 1) The insurer gives at least 45 days' written notice that it proposes to refuse to renew the contract upon its expiration date, including therein the actual reason for the refusal; or
 - 2) At least 20 days prior to the expiration date of this policy, this Company communicates its willingness to renew in writing to the Insured or to his or her representative, including therein a statement of the amount of the premium or portion thereof required to be paid by the insured to renew this policy, but the Insured fails to discharge when due his obligation in connection with the payment; or
 - 3) Other coverage acceptable to the Insured has been procured prior to the expiration of the policy period.

A renewal shall be based on rates and forms applicable to the expiring policy and its term, except to the extent this Company gives at least 20 days' advance notice of changes in rate or contract provision.

- f) If notice of cancellation is mailed, proof of mailing will be sufficient proof of notice. This Company will return premium to the Insured:
 - 1) On a pro rata basis if this Company cancels the policy.
 - 2) 90% of the pro rata basis if the Insured cancels the policy.

MORTGAGEE CLAUSE

- 1. Loss or damage, if any, under this policy shall be payable first to the loss payee or mortgagee (hereinafter called secured party), and, second, to the Insured, as their interests may appear; PROVIDED, That, upon demand for separate settlement by the secured party, the amount of said loss shall be paid directly to the secured party to the extent of its interest.
- 2. This insurance as to the interest of the secured party shall not be invalidated by any act or neglect of the Insured named in said policy or his agents, employees or representatives, nor by any change in the title or ownership of the insured property; PROVIDED, HOWEVER, That, the conversion, embezzlement or secretion by the Named Insured or his agents, employees or representatives is not covered under said policy unless specifically insured against and premiums paid therefor.
- 3. In applying the pro rata provisions of the policy, the amount payable to the secured party shall be reduced only to the extent of pro rata payments receivable by the secured party under other policies.
- 4. The Company reserves the right to cancel the policy at any time as provided by its terms, but in such case the Company shall mail to the secured party a notice stating when such cancellation shall become effective as to the interest of said secured party. The amount and form of such notice shall be not less than that required to be given the Named Insured, by law or by the policy provisions, whichever is more favorable to the secured party.
- 5. If the Insured fails to render proof of loss within the time granted in the policy conditions, such secured party shall do so within 60 days after having knowledge of a loss, in form and manner as provided by the policy, and, further, shall be subject to the provisions of the policy relating to appraisal and the time of payment and bringing suit.

6. Whenever the Company shall pay the secured party any sum for loss or damage under such policy and shall claim that, as to the Insured, no liability exists, the Company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all collateral held to secure the debt, or may, at its option, pay to the secured party the whole principal due or to grow due on the mortgage or other security agreement, with interest, and shall thereupon receive a full assignment and transfer of the mortgage or other security agreement and of all collateral held to secure it; but no subrogation shall impair the right of the secured party to recover the full amount due it.
7. All terms and conditions of the policy remain unchanged except as herein specifically provided.
8. All notices sent to the secured party shall be sent to its last reported address, which must be stated in the policy or below or on certificates issued prior to loss.

The definition of **actual cash value** is replaced with:

actual cash value means the cost to repair or replace the property, at the time and place of the loss or damage, with new material of like kind and quality, less proper deduction for obsolescence and physical depreciation.

Replacement cost, wherever used in this Policy, shall mean the cost to repair or replace with new material or equipment of like kind and quality.

The last sentence of APPRAISAL is replaced with:

This Company and the Insured will not be held to have waived any of their rights by any act relating to appraisal.

INSPECTIONS is deleted. The following is provided to replace it:

This Company, at all reasonable times, will be permitted, but will not have the duty, to inspect insured property. This Company does not address life, safety or health issues.

This Company's:

1. Right to make inspections; or
2. Making of inspections; or
3. Providing recommendations or other information in connection with any inspections,

Will not constitute an undertaking, on behalf of or for the benefit of the Insured or others.

This Company will have no liability to the Insured or any other person because of any inspection or failure to inspect.

For jurisdictional inspections, the Company's commissioned inspector inspects non exempt boilers and unfired pressure vessels as to their construction, installation, condition and operation, in compliance with the state's requirements regarding such activity.

When the Company is not providing jurisdictional inspections, the Owner/Operator has the responsibility to assure that:

1. These inspections are performed as required; and
2. Required jurisdictional Operating Certificates are current for their pressure equipment.

If PRO 389 - Ingress/ Egress Earth Movement Exclusion (4/15) is included in this Policy, the following paragraph:

Physical loss or damage caused by or resulting from **Earth Movement**, regardless of any other cause or event, whether or not insured by this Policy, contributing concurrently or in any other sequence to the loss.

is replaced by the following:

Loss or damage caused by **Earth Movement**. Loss or damage will be considered to have been caused by **Earth Movement** if the occurrence of **Earth Movement**:

- i. Directly and solely results in loss or damage; or
- ii. Initiates a sequence of events that results in loss or damage, regardless of the nature of any intermediate or final event in that sequence:

If PRO 390 - Ingress/ Egress Flood Exclusion (4/15) is included in this Policy, the following paragraph:

Physical loss or damage caused by or resulting from **flood**, regardless of any other cause or event, whether or not insured by this Policy, contributing concurrently or in any other sequence to the loss.

is replaced by the following:

Loss or damage caused by **flood**. Loss or damage will be considered to have been caused by **flood** if the occurrence of **flood**:

- i. Directly and solely results in loss or damage; or
- ii. Initiates a sequence of events that results in loss or damage, regardless of the nature of any intermediate or final event in that sequence:

If PRO 391 - Ingress/ Egress Earth Movement and Flood Exclusion (4/15) is included in this Policy, the following paragraph:

Physical loss or damage caused by or resulting from **Flood** or **Earth Movement**, regardless of any other cause or event, whether or not insured by this Policy, contributing concurrently or in any other sequence to the loss.

is replaced by the following:

Loss or damage caused by **Flood** or **Earth Movement**. Loss or damage will be considered to have been caused by **Flood** or **Earth Movement** if the occurrence of **Flood** or **Earth Movement**:

- i. Directly and solely results in loss or damage; or
- ii. Initiates a sequence of events that results in loss or damage, regardless of the nature of any intermediate or final event in that sequence:

CONDOMINIUM ASSOCIATIONS

The following applies to Condominium Associations when the Condominium Endorsement, Form PRO CO 4100 is attached to this policy.

1. LOSS CONDITIONS

In the event of loss or damage covered by this policy, it shall be optional that the Company will either:

- a) Pay the value of the lost or damaged property;
- b) Pay the cost of repairing or replacing the lost or damaged property;
- c) Take all or any part of the property at an agreed or appraised value; or
- d) Repair, rebuild or replace the property with other property of like kind and quality.

However, option c) above will not apply if the Insured is required by state law to repair or replace the property; and option d. will not apply if the property is not being repaired or replaced in accordance with state law.

Subsection (7) of Wash. Rev. Code Ann. Section 64.34.352 (1990) provides that any portion of the condominium for which insurance is required shall be repaired or replaced unless:

- 1) The condominium is terminated;
- 2) Repair or replacement would be illegal under any state or local health or safety statute or ordinance; or
- 3) 80% of the unit-owners vote not to rebuild. This includes every owner of a unit or assigned limited common element that will not be rebuilt.

2. ACT OR OMISSION

No act or omission committed by any unit-owner will void this policy or be a condition to recovery under this policy. But this condition does not apply to unit-owners acting within the scope of their authority on behalf of the Association.

3. WAIVER OF RIGHTS OF RECOVERY

The Company waives its rights to recover payment against:

- a) Any unit-owner described in the Declarations including the developer, members of the unit-owner's household, and lessees of the unit-owner;
- b) The Association; and
- c) Members of the board of directors for acts or omissions committed within the scope of their duties for you.

But the Company reserves its right to recover from the developer, damages for which they held liable in their capacity as a developer.

4. MORTGAGE HOLDERS

The following condition is added and supersedes any provision to the contrary:

If the condominium is terminated, the Company will pay for covered loss of, or damage to, buildings or structures to each mortgage holder shown on the Declarations or on certificates issued prior to loss in their order of precedence, as interests may appear.

In all other respects, the Company will pay for loss to buildings or structures to the Insured or the insurance trustee designated for that purpose.