



JAMES K. RUBLE SEMINAR

Ruble Graduate Seminar

IA&B PA MD DE Webinar
July 13 & 14, 2021

James K. Ruble Seminar

Ruble Graduate Seminar

July 13-14, 2021 • Webinar

Tuesday, July 13, 2021

7:45 AM - 8:00 AM

Join Webinar

8:00 AM - 12:00 PM

Section 1

Decision Risks and Coverages for Executive Risks

Tim McClendon

12:00 PM - 1:15 PM

Lunch

1:15 PM - 5:15 PM

Section 2

Cyber Risk - Exposures and Products

Tim McClendon

Wednesday, July 14, 2021

7:45 AM - 8:00 AM

Join Webinar

8:00 AM - 12:00 PM

Section 3

Solving Troublesome Liability Issues

R. Bryan Tilden

12:00 PM - 1:15 PM

Lunch

1:15 PM - 5:15 PM

Section 4

Leased Properties Exposures

R. Bryan Tilden

Faculty

Tim McClendon CIC, CWCA

Hertel McClendon, LLP

R. Bryan Tilden CIC, CPCU, CLU, ChFC, ARM, ALCM, SCLA

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Educational Consultant

Daniel Lawyer, CIC, CSRM, CPCU

Warrenton, VA

JAMES K. RUBLE SEMINAR
Ruble Graduate Seminar
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A Letter from William J. Hold, President/CEO

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Let's take the first step.

William J. Hold, M.B.A., CRM, CISR
President/CEO



James K. Ruble Seminar

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Section 1

Decision Risks and Coverages for Executive Risks



DECISION RISKS AND COVERAGES FOR EXECUTIVE RISKS

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Decision Risks and Coverages for Executive Risks

Discussion Areas

- **Directors & Officers Liability**
- **Employee Benefits Liability**
- **Fiduciary Liability**

Directors and Officers Liability

I. INTRODUCTION / PURPOSE

A. PURPOSE

1. Pays on behalf of insured director or officer for loss arising from claims during the policy period by reason of wrongful acts made while acting in their individual or collective capacities as directors or officers.
2. Usually subject to self-insured retention (SIR)
3. Two separate coverages
 - a. D&O Liability
 - b. Corporate Reimbursement

B. PERSONAL LIABILITY FOR CORPORATE DECISIONS

1. Shrinking Resource
2. Potentially Devastating

C. GROWING EXPOSURES

1. Litigious Society
2. Increased Level of Mergers and Acquisitions
 - a. Target board violated fiduciary duties
 - b. Conducted a flawed sales process
 - c. Suits even if sale resisted, not concluded or declined
3. Broader Interpretation of Federal Laws
4. Passage of New State and Federal Laws
5. Increased Claims by Third Parties

D. PROTECTION PROVIDED BY OTHER INSURANCE SOURCES

1. Personal Insurance

a. Homeowners Policy

(1) Personal Injury Liability Endorsement

b. Personal Umbrella Liability Policy

2. Commercial Insurance

a. Commercial General Liability Policy (CGL)

b. Business Auto Policy (BAP)

c. Workers' Compensation Policy

d. Excess / Commercial Umbrella Liability

II. SOURCES AND TYPES OF DIRECTORS & OFFICERS LAWSUITS

A. DERIVATIVE SUITS

Derivative suits are becoming increasingly common and growing more risky. Generally, they are brought by an existing shareholder on behalf of the company against the officers and directors of the company and they allege breach of fiduciary duty. Derivative suits come in two basic varieties: those that accompany class actions and those that are free-standing.

1. Sources of Suits

- a. By stockholders - on behalf of the corporation.
- b. By the corporation or entity against its own directors or officers.

2. Allegations in Derivative Suits

- a. Misleading representations
- b. Negligence / Mismanagement
- c. Errors and Omissions in handling corporate affairs
- d. Breach of Duty to minority stockholders
- e. Wasting of corporate assets
- f. Failure of corporate strategy
- g. RICO (Racketeering Influenced and Corrupt Organizations Act)
- h. Improper or illegal payments
- i. Restatement of earnings
- j. Divestiture
- k. Accounting fraud
- l. Copyright / Patent infringement
- m. Public or stock offerings
- n. Inaccurate disclosure
- o. Hostile takeovers
- p. Business interference

B. NON-DERIVATIVE SUITS

1. Sources of Non-Derivative Suits

- a. By stockholders - on behalf of themselves (some called class actions).
 - *A former shareholder filed suit against a company's officers after its earnings increased following a management buyout. The **successful** defense of the officers cost over \$500,000.*
- b. Employees or former employees
 - *Employees filed suit against the officers of a company after the company's multi-employer health plan failed. The insurance carrier for the officers contributed \$700,000 toward a settlement pool of \$2,000,000.*
 - *An employee filed suit alleging wrongful termination for refusal to certify a false tax return. An adverse judgment was rendered in excess of \$10,000,000.*
- c. Customers, Suppliers, Distributors
 - *The shareholders of a customer alleged that the company and its president were responsible for the bankruptcy of a joint venture. The case was settled before trial for \$5,000,000 and defense costs exceeded \$2,000,000.*
 - *The successful defense of a distribution company's directors and officers sued by a retailer over a marketing program resulted in defense costs exceeding \$1,000,000.*
 - *A supplier sues the directors of a company alleging self-dealing and illegal kickbacks when a contract is awarded to a relative of one of the board members.*
- d. Prior owners of an acquired company

- e. Governmental bodies or agencies
 - *The Federal Government indicted the president of a company for bribery. The criminal trial resulted in an acquittal, but defense costs and fees incurred were over \$2,000,000.*
 - *The Federal Government sued the president of a company for price fixing. Although the president was acquitted, the defense costs and fees incurred exceeded \$4,000,000.*
 - f. Competitors
 - g. Contractors
 - h. Lenders or Creditors
 - *A lender sued the directors and officers of a corporation for converting inventory pledged as collateral for a loan. The case was settled for \$7,000,000.*
 - i. Public activist groups
 - j. Contractual relationships
 - k. Other investors
2. *Allegations in non-derivative suits*
- a. Failure to honor employee contracts
 - b. Wrongful termination
 - c. Discrimination
 - d. Violation of Civil Rights
 - e. Wrongful repossession
 - f. Conspiracy to defraud
 - g. Tax issues
 - h. False advertising
 - i. Dishonesty and fraud issues
 - j. Improper or illegal payments
 - k. Environmental violations
 - l. Conflict of interest
 - m. Restraint of trade
 - n. Anti-trust violations
 - o. Violation of codes and laws
 - p. Negligence / Mismanagement
 - q. RICO Actions

III. LEGAL CONCEPTS FOR DIRECTORS & OFFICERS LIABILITY

A. DUTIES OF DIRECTORS AND OFFICERS

1. *Broad List*

- a. Obedience
- b. Loyalty
- c. Diligence

2. *Specific List*

- a. Attend all meetings
- b. Review all reports and other data made available
- c. Devote sufficient time to the corporation's affairs so as to become acquainted with them
- d. Stay fully informed on all operating results and issues
- e. Stay close to problem areas, closely monitor peer review committees and take action as soon as warning signs appear
- f. Be aware of and conversant with corporate bylaws and principles which affect management of the corporation
- g. Pay careful attention to the selection and supervision of the principal officers of the corporation
- h. Disclose and document any business relationships that could be construed as conflicts of interest
- i. Register proper dissent when disagreeing with the rest of the Board
- j. Carefully review potential D&O Liability exposures with agent

B. BASIS OF DUTIES

1. Common Law
 - a. Fraud
 - b. Breach of fiduciary duties
 - c. Business Judgment Rule (high standards of corporate governance)
 - (1) Directors must serve in “good faith”
 - (2) Directors must serve in a manner that they believe to be in the “best interests of the corporation”
 - (3) Directors must serve with “due care” including reasonable inquiry, as an ordinarily prudent businessperson would use under similar circumstances
2. State laws
3. Federal laws
 - a. Clayton and Sherman Anti-Trust Acts
 - b. ERISA (The Employees Retirement and Income Security Act of 1974)
 - c. Internal Revenue Code
 - d. State and Federal Securities Laws
 - e. RICO (involves treble damages)
 - f. Americans With Disabilities Act

C. PARTIES TO WHOM DUTIES ARE OWED

1. The Corporation (direct action)
 - a. Board files against current or prior board member
 - b. Parties of the corporation against members of the board
2. Shareholders (derivative action)
 - a. Filed by a shareholder in behalf of the corporation
3. Certain other parties (non-derivative action)
 - a. Creditors
 - b. Competitors
 - c. Regulatory bodies
 - d. Contractual relationships

D. DEFENSES

1. Satisfactory Performance
2. The Business Judgment Rule
3. Due Diligence
4. Concept of privity of contract
5. Ratification of actions by shareholders

E. INDEMNIFICATION OF DIRECTORS AND OFFICERS

1. Business Corporation statutes **may** provide that Directors and Officers be reimbursed for certain expenses and settlement costs. Two types of indemnification are available:
 - a. **Mandatory** - Director, officer, employee or agent of corporation shall be indemnified against expenses (including attorney fees)
 - b. **Permissive**
 - (1) Non-Derivative Suits - Every corporation shall have the power to indemnify any director, officer, employee or agent against expenses (including attorney fees), judgments, settlements and fines if he/she acted in good faith and in a manner he/she reasonably believed to be in the best interests of the corporation
 - (2) Derivative Suits - Every corporation shall have the power to indemnify any director, officer, employee or agent against expenses (including attorney fees) if he/she acted in good faith and in a manner he/she reasonably believed to be in the best interests of the corporation. (Corporation cannot reimburse for judgments, settlements or fines from this type of suit.)
 - (3) **Exception** - No indemnification shall be made in respect of any claim or matter in which such person was adjudged to be liable for **negligence** or **misconduct** in the performance of their duties to the corporation.

2. Business Corporation Statutes provide that a corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, etc., whether or not the corporation would have the power to indemnify him against such liabilities under the provisions of the statute.

(a) *ONLY D&O INSURANCE CAN PROVIDE REIMBURSEMENT FOR:*

- (1) Failure of duty of care
- (2) Failure of duty of loyalty
- (3) Negligence established against a director arising out of a stockholder action
- (4) Misconduct in the performance of duties established against a director arising out of a stockholder action

- (b) The individual side of the D & O policy is the only permissible tool to protect the personal fortunes of directors in certain instances!

IV. PARTNERSHIPS

A. Exposures for Limited Partnerships

1. Breach of Partnership Agreement
2. Breach of Fiduciary Duty
3. Unjust Enrichment
4. Fraud
5. Conversion
6. Misuse of Funds
7. Unsound Investments
8. Coercion
9. Business Interference
10. Breach of Contract

B. Need for a Different D&O Liability Policy Form

1. Standard D&O policy not designed for needs of a partnership and responds to unique risks posed by fiduciary duties of general partners
2. Partnership Liability Policy uses terminology specific to partnerships
3. Can include named partnership, general partners, additional partnerships, subsidiaries
4. Can allow coverage for partnership agreement breaches
5. Includes exception to *Insured vs. Insured* exclusion
6. Should extend coverage explicitly to additional partnerships sharing a common general partners
7. Policy is more tailored to provide broader protection to a partnership

V. DIRECTORS AND OFFICERS LIABILITY POLICY

A. INSURING AGREEMENTS

*The first insuring agreement of a D&O policy (often termed "Side A" coverage) covers the direct liability of an organization's directors and officers. If such persons are found liable to third parties, this portion of the policy promises to indemnify the directors and officers for claim payments and defense costs that they incur as a result of such liability. It is important to recognize that this portion of the policy applies only to claims for which the parent organization is **not legally required** to indemnify directors and officers or cannot indemnify the directors/officers. Thus, if a corporation is insolvent it cannot indemnify its directors and officers and Side A coverage would indemnify the directors and officers.*

1. Directors and Officers Liability

- a. Coverage for the individual liability of the directors and officers themselves.
- b. Coverage for claims not indemnified by the corporation.
- c. Very small number of claims.
- d. Low deductible or no deductible.

SAMPLE DIRECTORS AND OFFICERS LIABILITY COVERAGE PROVISION

Coverage A: Executive Liability Insurance

This policy shall pay the Loss of any Insured Person arising from a Claim made against such Insured Person for any Wrongful Act of such Insured Person, except when and to the extent that an Organization has indemnified such Insured Person.

Source: American International Companies, Executive and Organization Liability Insurance, 75011

2. Corporate Reimbursement

The second insuring agreement in a D&O policy (often called "Side B" coverage) covers the parent company's obligation to indemnify the insured directors or officers for the claim payments and defense costs relating to any legal liability associated with wrongful acts committed while in the service of the organization. Corporations must typically indemnify their directors and officers for wrongful acts, as required by the following:

- The organization's charter or bylaws
- Individual agreements with a director or officer as a condition of employment
- State indemnification statutes
- Common law requirements in the state of incorporation

Some typical characteristics:

- a. Coverage for the corporation's obligation, if any, to indemnify its directors and officers for certain actions against them.
- b. Pays on behalf of the company for claims that are indemnified by the corporation.
- c. 95% of all D & O Suits.
- d. Higher deductible.
- e. "Presumptive indemnification" - D & O carrier presumes the corporation will reimburse the director, officer, etc., if legally required to do so.

SAMPLE CORPORATE REIMBURSEMENT COVERAGE PROVISION

2. Directors and Officers Liability (Reimbursement)

... the Insurer shall pay on behalf of ABC Corp or any Subsidiary, Loss for which ABC Corp or any Subsidiary is required, or has determined as permitted by law, to indemnify the Insured Persons and which results from any Claim first reported by the ABC Corp Insureds to the Insurer during the Policy Period or Extended Reporting Period, if applicable, and made against the Insured Persons for a Wrongful Act.

Source: CNA Pro, Corporate Solutions, G-129157-A (11/98)

3. Entity Coverage – Side C

- a. Covers a company's own liabilities when it is named along with its directors and officers in shareholder litigation.
- b. Private companies enjoy much broader entity coverage under Side C of their D&O insurance programs compared to public companies (public companies are only covered for securities claims).
- c. For smaller, private companies, Side C insuring agreement will usually provide coverage for a broader class of claims brought against the entity.
- d. Side C is typically subject to a self-insured retention or deductible.

I. INSURING CLAUSES

Insuring Clause (A): Individual Non-Indemnified Liability Coverage

- (A) The Company shall pay, on behalf of an **Insured Person**, **Loss** on account of a **Claim** first made against the **Insured Person** during the **Policy Period**, or the Extended Reporting Period if applicable, to the extent that such **Loss** is not indemnified by an **Organization**.

Insuring Clause (B): Individual Indemnified Liability Coverage

- (B) The Company shall pay, on behalf of an **Organization**, **Loss** on account of a **Claim** first made against an **Insured Person** during the **Policy Period**, or the Extended Reporting Period if applicable, to the extent the **Organization** indemnifies the **Insured Person** for such **Loss** as permitted or required by law.

Insuring Clause (C): Entity Liability Coverage

- (C) The Company shall pay, on behalf of an **Organization**, **Loss** on account of a **Claim** first made against the **Organization** during the **Policy Period**, or the Extended Reporting Period if applicable.

SPECIMEN

B. “PAY ON BEHALF OF” OR “REIMBURSEMENT” FORM

1. “Pay on Behalf of” Form

- a. Most private company forms.
- b. “Duty to Defend” language.
- c. Insurer must defend ALL allegations if at least one is covered by the policy.

SPECIMEN INSURING CLAUSE #1

“The Company shall pay on behalf of each of the Insured Persons all Loss for which the Insured Person is not indemnified by the Insured Organization and which the Insured Person becomes legally obligated to pay on account of any claim first made against him, individually or otherwise, during the Policy Period or, if exercised during the Extended Reporting Period for a Wrongful Act committed, attempted, or allegedly committed or attempted, by the Insured person(s) before or during the Policy Period.”

2. “Indemnity” Form

- a. Many public company forms.
- b. No Duty to Defend; *only* Duty to Pay.
- c. No obligation to pay defense costs of any allegations not covered by policy.

SPECIMEN INSURING CLAUSE #2

“This policy shall reimburse the Company for Loss arising from any claim or claims which are first made against the Directors or Officers and Reported to the insurer during the Policy Period or the Discovery Period (if applicable) for any alleged Wrongful Act in their respective capacities as Directors or Officers of the Company, but only when and to the extent that the Company has indemnified the Directors or Officers for such Loss pursuant to law, common or statutory, or contract, or the Charter or By-Laws of the Company duly effective under such law which determines and defines such rights of indemnity.”

C. COVERAGE TRIGGER

1. Claims-Made Policies – insurance applies to claims made during the policy period, or the optional extended reporting period, for a wrongful act committed subsequent to the retroactive date stated in the declarations.
2. Claim is a lawsuit or written demand.
3. Loss Reporting Duties
 - a. “Notice of Circumstances” - Any possibility of a potential claim or a threat of claim should be reported to the Carrier to put them on notice.

SPECIMEN INSURING CLAUSE #2

“This policy shall pay the Loss of each and every Director or Officer of the Company arising from any claim or claims first made against the Directors or Officers and reported to the Insurer during the Policy Period or the Discovery Period (if applicable) for any alleged Wrongful Act in their respective capacities as Directors and Officers of the Company, but only when and to the extent that the Company has indemnified the Directors or Officers. The Insurer shall, in accordance with and subject to Clause 9, advance to each and every Director and Officer the Defense Costs of such claim or claims prior to their final disposition.”

- b. Notice must be very specific:

What? Who? How?
- c. When is a claim made? Each policy different:
 - (1) Date complaint is filed;
 - (2) Date delivered to insured;
 - (3) Date insured first becomes aware of complaint;
 - (4) Mailing date.

4. Optional Extended Reporting Provisions
 - a. Sometimes called the discovery clause.
 - b. Agreement prior to binding coverage.
 - c. Deadline for requesting coverage - Insured normally must notify insurance company in writing within 10 days after policy termination and pay an additional premium.
 - d. Length of discovery period.
 - e. Usually applies if policy cancelled or non-renewed by Carrier.
 - f. Some carriers may charge up to 50% or more of the full annual premium for ERP – all fully earned.
 - g. Cost, time, price and conditions can *all* be negotiated

D. DEFENSE PROVISIONS

1. Duty to Defend
2. Right to Defend
3. Consent (Hammer Clause)
 - a. Some policies do not require consent of insured to settle claims (hard hammer).

The **Company's** duty to defend ends if the **Insured** refuses to consent to a settlement acceptable to the claimant/plaintiff and the **Company**. In such event, the **Company** shall tender a check to the **Insured** for the recommended settlement amount, and shall be relieved of any further duty or obligation, other than for covered **Claims Expenses** incurred until the date of such refusal. The **Insured** thereafter has the duty to defend at its own expense. This paragraph shall not apply to a settlement in which the total incurred **Damages and Claims Expenses** do not exceed the Retention.

b. Some policies have a somewhat softer hammer.

If the **Insurer** recommends a settlement within the **Policy** Limit of Liability which is acceptable to the claimant, but the **Insureds** do not consent to such settlement within 30 days of the date the **Insureds** are first made aware of the potential settlement, the **Insurer's** liability for all **Loss** on account of such **Claim** shall not exceed (i) the amount for which the **Insurer** could have settled such **Claim** plus **Defense Costs** incurred as of the date the potential settlement was proposed in writing by the **Insurer** to the **Insureds**, and (ii) 50% of all subsequent covered **Loss** in excess of such amount, the remaining 50% of which shall be borne by the **Insureds** uninsured and at their own risk. However, this subsection does not apply to any potential settlement that is within the Retention.

c. Some policies have a very soft hammer.

The **Insurer** may make any investigation it deems necessary and settle any **Claim** subject to the **Named Insured's** written consent to settle which shall not be unreasonably withheld. If any **Insured** refuses to consent to the settlement of any **Claim** which the **Insurer** recommends and which is acceptable to the claimant, subject to the applicable Limit of Liability or Retention, the **Insurer's** liability for all **Loss** from such **Claim** shall not exceed:

1. The amount the **Insurer** would have contributed to the settlement including **Defense Expenses** incurred up to the date of such refusal; and
2. Eighty percent (80%) of such **Loss** in excess of the amount for which the **Claim** would have been settled.

E. COMMON DEFINITIONS

1. Director or Officer Insured
2. Corporation
3. Subsidiary Company
4. Wrongful Act
5. Defense Costs
6. Loss
7. Policy Period (or Policy Year)
8. Insured Organization

F. COVERED PERSONS AND ORGANIZATIONS

1. Persons

- a. Usually includes past, present and future duly elected or appointed Directors or Officers.
- b. Some forms automatically include new Directors and Officers added after policy inception.
- c. Joint and several liability coverage.

2. Organizations

- a. Subsidiary Directors and Officers
- b. Individuals of Newly Acquired/Created Entities
- c. Mergers / Acquisitions

G. EXCLUSIONS

1. Common Exclusions

- a. Nuclear
- b. Absolute Pollution

Exclusion for, based upon, arising from, or in any way related to:

- (a) the actual, alleged or threatened discharge, dispersal, release or escape of pollutants; or
- (b) any direction, request or voluntary decision to test for, abate, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, nuclear material or nuclear waste,

including without limitation any **Securities Claim** or any other Claim by or on behalf of the Company or its shareholders in their capacity as such. However, this exclusion shall not apply to any Employment Practices Claim.

Pollutants include, but are not limited to, any solid, liquid, gaseous or thermal irritant or contaminant, including without limitation smoke, vapor, soot, fumes, acids, alkalis, chemicals, odors, noise, lead, oil or oil products, radiation, asbestos or asbestos-containing products, waste and any electric, magnetic or electromagnetic field of any frequency. Waste includes, but is not limited to, material to be recycled, reconditioned or reclaimed;

- c. Personal Profit
- d. Personal Injury and / or Bodily Injury
- e. Dishonesty
- f. ERISA
- g. Wage & Hour

...alleging, based upon, arising out of, or attributable to improper payroll deductions, unpaid wages or overtime pay for hours actually worked or labor actually performed by any **Employee** of a **Company**, or any violation of any federal, state, local or foreign statutory law or common law that governs the same topic or subject, or any rules, regulations or amendments.

2. Other Exclusions

- a. Failure to Maintain Insurance
- b. Prior Covered Acts
- c. Hostile Takeover and Defense Costs
- d. Discrimination
- e. Punitive Damages
- f. Loss Insured by another Policy
- g. Violations of Securities Acts

alleging, based upon, arising out of, or attributable to:

- (1) any public offering of **Securities** undertaken or consummated by or on behalf of the **Company** ("Public Offering"), or the solicitation, sale, purchase, distribution, or issuance of any such **Securities**, whether any such activity occurs or allegedly occurs prior to, during, or after such Public Offering; or
- (2) any **Wrongful Act**, including without limitation any actual or alleged violation of any **Securities Laws**, relating in any way to a Public Offering or to any **Securities** issued, sold or distributed pursuant to a Public Offering, whether any such **Wrongful Act** occurs or allegedly occurs prior to, during, or after such Public Offering

provided that this exclusion shall not apply to **Claims** arising from an offer, sale or purchase of **Securities** in a transaction that is exempt from registration under the Securities Act of 1933, or any amendments thereto or any rules and regulations promulgated thereunder.

h. Insured vs. Insured

Insured vs. Insured

Brought by or on behalf of any **Insured**, however this exclusion does not apply to:

a. Any **Claim**:

- 1) Made and maintained independently of and without the solicitation, assistance, participation or intervention of any **Executive**;
- 2) Brought by an **Insured Individual** for contribution or indemnity, if such **Claim** directly results from another **Claim** covered under this Policy;
- 3) For employment related **Wrongful Acts** against an **Insured Individual**;
- 4) Brought by an employee, other than an **Executive**, in his or her capacity as a shareholder of an **Insured Entity**;
- 5) Brought by an **Executive** who has ceased serving in his or her capacity as an **Executive** for at least three (3) years;
- 6) Brought by a whistle blower pursuant to any federal, state, local or foreign law against an **Insured Individual**; or

i. Antitrust Exclusion

j. Professional Services

k. Pending and Prior Litigation

l. Corporate Knowledge

(1) Against Public Policy

(2) Insider Trading

(3) Remuneration of Board by Board

H. LIMITS OF LIABILITY

1. Each Occurrence / Each Year
2. Deductible and Participation
 - a. Deductible applies to each claim - both indemnity and defense costs
 - b. Participation - Stated Percentage
3. Anti-Stacking
4. Defense Costs
 - a. Covered Defense Cost Items
 - b. Defense Costs Within Limits
 - c. Discovery Provisions

I. ALLOCATION

1. Typical lawsuit names **ALL** Directors and Officers and includes covered and non-covered acts
2. Insured Party vs. Uninsured Party
 - a. Is board member covered?

Is board member actually on the board?

Was this a dishonest act?

Was suit a result of a decision made by a member?
 - b. If “yes,” what responsibility for claim is due to member and what is due to the organization? (Policy does not protect the organization)

- c. *Corporations will **always** be held by courts to be somewhat responsible. Most lawsuits (**99%**) name both the corporation and the individual.

3. Insured Act vs. Uninsured Act

- a. Is act covered?
- b. Most D & O claims do **NOT** result in **100%** reimbursement or defense payment of either settlement or damages.
- c. Endorsements available with some carriers to pre-determine the allocation percentage for a specific premium. (Example: **80%**)

J. OTHER CONSIDERATIONS

- 1. The Application
 - a. Usually attached to policy
 - b. Typically, “warranty” for information
 - (1) Treated as part of the policy
 - (2) Requires signature to bind coverage
 - c. Supplementary Information
 - (1) Audited financial statements for 2-5 years
 - (2) List of all officers and directors
 - (3) Copy of bylaws & articles of incorporation
 - (4) 10(k) for public companies
- 2. Changing Companies
 - a. Continuity
 - b. Wording of “incident” definition
- 3. SEC Coverage / Violations
 - a. Some forms include Entity coverage for SEC violations

4. Key Policy Features Available
 - a. Broad definition of claim (including non-monetary relief)
 - b. Outside position coverage for covered persons (outside directorships)
 - c. Spousal or domestic partner coverage
 - d. Foreign parent corporation coverage extension
 - e. Continued coverage for prior acts for sold subsidiaries, whether sold before or during the policy period
 - f. Coverage for civil fines and civil penalties where insurable, including FCPA civil penalties
 - g. Derivative demand investigations cost coverage
 - h. Side A reinstated limit for managers at no additional premium
 - i. Waiver of retention provision if resolved with no liability to insureds

VI. D & O FOR NON-PROFIT ENTITIES

A. POSSIBLE GROUNDS FOR LAWSUITS

1. Irregular attendance at board meetings
2. Mismanagement of funds
3. Conflicts of interest
4. Discriminatory practices
5. Others

B. FORM

1. Many policies include volunteers, committee members, present, past and future board members, and employees
2. Generally covers nonprofit corporations (entity) as well as individuals
3. Usually low or no deductible / retention.
4. Many include Employment Practices liability coverage

C. ELIGIBLE RISKS

1. Churches
2. Country Clubs
3. Foundations
4. Social Service Organizations
5. Fund-raising organizations
6. Trade Associations
7. Hospitals and Nursing Homes
8. Others

D. CHARITABLE IMMUNITY LAWS

1. Federal Volunteer Protection Act of 1997

In 1997, our government passed the federal Volunteer Protection Act (VPA) to promote volunteerism for nonprofit organizations. There is more to the act than can be summarized in this article, and any legal advice should come from an attorney, but it's important to know that there is a federal law designed to provide protection to volunteers. Also, note that the immunity applies to volunteers, and not necessarily the nonprofit organization or compensated employees/executives. With that knowledge, it's important to be aware of other limitations of the act.

Exceptions from the federal law:

- Acts of violence
- Acts of international terrorism
- Hate crimes
- Sexual offenses
- Civil rights violations
- Claims involving use of alcohol or drugs

In the absence of a definition of "Civil Rights" in the act, all sorts of common problems could be exempt. Three instances that immediately come to mind are discrimination, sexual harassment and privacy rights. Those are common allegations in claims we see made against volunteers, nonprofit organizations and their leaders.

Volunteers may also lose their potential immunity in these situations if:

- The volunteer is acting outside the scope of his or her responsibilities to the organization
- The volunteer was unlicensed if required or appropriate
- The harm was caused by gross negligence rather than ordinary or simple negligence
- The harm was a result of operating a vehicle, vessel or aircraft that requires a license or insurance
- The volunteer receives compensation or anything other than compensation that is worth over \$500
- The charity loses its nonprofit status

The VPA has provisions indicating that immunity provided by the act cannot be reduced by state laws, but can be broadened by state law. The federal law will apply to volunteers unless a state opts out of the law, which is permitted. New Hampshire, for example, opted out in instances

2. Many states have charitable immunity laws to encourage volunteer service by reducing the liability exposures and insurance costs to charitable organizations.
3. Usually apply to 501 (c) (3) or 501 (c) (4) organizations listed as exempt in the federal income tax statute.
4. Types of liability covered by acts:
 - a. Volunteer liability
 - b. Employee liability
 - c. Organizational liability
5. Laws generally do not protect the organization or staff.
6. Laws generally do not protect even volunteers against allegations of violations of federal civil rights laws, claims of “gross negligence,” governmental authorities, vendors, one director against another, or automobile-related liability. Even if volunteer is totally blameless, he or she can still be sued and will incur defense costs.

VII. CONCLUSION AND SUMMARY

A. MANY SOURCES OF EXPOSURE / LIABILITY

B. VALUABLE COVERAGE

C. NO STANDARD POLICIES

D & O LIABILITY

EXHIBITS



SOURCES OF D & O CLAIMS

(Source: The Wyatt Directors and Officers Liability Survey)

46% - Shareholders, Investors, Partners and Members

Merger / acquisition disputes	Conflict of interest
Financial performance / bankruptcy	Investment or loan decision
Executive Compensation	Inadequate / inaccurate disclosure
Stock or other public offering	Financial reporting

25% - Employees or Former Employees

Wrongful termination	Harassment / humiliation
Breach of contract	Discrimination
Pension, welfare, benefit dispute	Defamation
Union dispute	

18% - Customers, Clients and Customer Groups

Extension / refusal of credit	Restraint of trade
Debt Collection	Dishonesty / fraud
Deceptive trade practices	Cost / quality of product / service
Contract dispute	

11% - Other Third Party Claimants

Antitrust	Dishonesty / Fraud
Copyright / patent infringement	Environmental
Product / company defamation	Tax Issues
Business interference	Other governmental issues
Competitor disputes	

Common Law Duties for Directors and Officers

Duty of Loyalty

Directors and officers (D&O's) are expected to avoid personal activities, which would injure or take advantage of the organization. This duty requires an unstinting loyalty to the organization and demands there be no conflict of interest between one's duty to the organization and one's self interest.

Conduct that is prohibited include:

- D&O's may not realize unfair gain through personal transactions on behalf of the organization.
- D&O's may not take away a corporate opportunity.
- D&O's may not realize personal gain from the use of private information.
- D&O's may not compete with the organization to its disadvantage.

Duty of Obedience

Directors and officers are expected to perform their duties in accordance with applicable statutes and the terms of the organization's charter. Translated, this means that D&O's can be held liable if they make decisions beyond the powers given to the board by its bylaw' and the state of incorporation. Numerous statutes, rules and regulations regulate nonprofit organizations. In many cases, directors are not familiar with these various rules and statutes. Examples of statutory imposed liability include employment claims, antitrust claims, copyright/patent claims, defamation claims, ERISA claims and other miscellaneous state and federal statutes.

Duty of Responsible Corporate Citizenship

This is a new and increasingly important duty. D&O's must consider such things as the environment, impact of decisions on communities and/or cities (e.g. a community center) and previously unknown constituencies to protect the public interest as well as the interest of the members.

Duty of Diligence

Directors and officers are expected to act with the care that s reasonably prudent person in a similar position would use in similar circumstances, They must act in a manner that they believe to be in the best interest of the organization. They must also perform their duties in good faith. D&O's must make informed decisions based on all material information available to them. Duty of care not only requires reasonable behavior with respect to matters of the organization, but also requires they make reasonable inquiry and follow-up of the organization's affairs.

Sarbanes-Oxley Federal Corporate Accountability Act

In the wake of numerous allegations of fraud by corporations and their accounting firms, the Sarbanes-Oxley Federal Corporate Accountability Act was passed to regulate financial reporting and auditing procedures. Both corporate officials and accountants are struggling to implement these controls.

This Act and the notoriety of problems in many high-profile companies have made this a huge E&O exposure for agents in dealing with risk managers and clients.

Here are a few of the highlights of the Act:

- ✓ Audit firms are not permitted to audit their own work.
- ✓ Auditors cannot advocate for their own audits or represent clients before the Internal Revenue Service during tax audits.
- ✓ An audit firm's partners must rotate on and off each client.
- ✓ The client company's audit committee must comprise independent directors rather than company executives.
- ✓ The audit committee will have the sole authority to hire an outside audit firm.
- ✓ Corporate attorneys have a positive responsibility to progressively report accounting concerns to the chief financial officer, the chief executive officer and the board of directors' independent audit committee.
- ✓ The chief executive officer must certify accounting statements.

EXAMPLES OF CLAIMS AGAINST NONPROFIT ORGANIZATIONS

- * Trustees of a charitable organization sold an old building that had been used to house the homeless and invested in a newer, better building. They were sued for wasting the assets of the trust.
- * A trustee pledged assets of a charitable trust to obtain a personal loan. Under the laws of some states, trustees are strictly prohibited from self-dealing and the trustee could be held liable.
- * A church secretary sued the members of the church's governing board alleging that the minister had sexually imposed upon her and that the trustees were negligent in the selection of a minister and in failing to supervise his activities.
- * A plaintiff alleged that trustees of a private foundation were sued for furnishing goods, services and facilities to a person disqualified to receive them under the law governing the foundation.
- * Beneficiaries of a hospital association established for the benefits of employees of a railroad had standing to sue the board of trustees of the hospital association to prevent dissolution of the association.
- * When a charitable hospital corporation sold a parcel of land adjacent to the hospital to a corporation owned by one of the trustees of the hospital corporation, where the buyer intended to build an apartment and office building, the court held that the facts were amply sufficient to avoid the sale.
- * In virtually every state, the Attorney General of the state has special powers under the statute to bring an action against a charitable organization and its trustees for the purpose of compelling them to account for the assets of the organization and requiring them to utilize its property for the purposes for which it was organized.

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DIRECTORS AND OFFICERS LIABILITY NONPROFIT ORGANIZATIONS

Directors and Officers Liability policies for nonprofit organizations generally include coverage for the Entity as well as Directors, Officers, Trustees, Employees, Volunteers and Committee Members. Many policies have “Duty to Defend” language and will “Pay on Behalf of” the Insured. Many will allow the Insured the option to select their own legal counsel.

ALLEGATIONS COVERED:

The policies defend allegations such as:

- Discrimination
- Wrongful Termination
- Harassment
- Breach of Contract
- Defamation, Libel and Slander
- Breach of duty of loyalty
- Breach of duty of care
- Breach of duty of obedience
- Antitrust

EXAMPLES OF BREACH OF DUTY OF LOYALTY:

- Personally profiting from the sale or purchase of assets.
- Disclosure to others of sensitive information learned as a director.
- Commingling of funds.
- Personal loans to directors and officers.
- Recommending contracts or services in which the director has a personal interest.

EXAMPLES OF BREACH OF DUTY OF CARE:

- Making hasty decisions without inquiring as to all the facts.
- Failure to monitor the affairs of the organization.
- Imprudent sale or purchase of assets.
- Mismanagement of organization’s resources.
- Jeopardizing the organization’s tax-exempt status.
- Participating in or tolerating employee harassment or employment termination

EXAMPLES OF BREACH OF DUTY OF OBEDIENCE:

- Employment related claims in violation of laws.
- Antitrust activities.
- Violations of ERISA in funds management.
- Violations of contracts entered into by the organization.
- Failure to adhere to the voting requirements in the corporate by-laws.

SAMPLE CHARITABLE IMMUNITY AND LIABILITY ACT (TEXAS)

The Charitable Immunity and Liability Act (1987) in Texas provides that a volunteer serving as a director, officer or trustee of a charitable organization, or as a direct service volunteer of such organization, is immune from civil liability for any act or omission resulting in ***bodily injury, death or property damage***.

This protection does **NOT** extend to:

- ◆ the operation of motor-driven equipment, including airplanes;
- ◆ the intentional, willful or wantonly negligent acts of a director;
- ◆ personal or financial injuries to others;
- ◆ contractual obligations of the organization to third parties;
- ◆ any non-charitable entity, including all hospitals.

ORGANIZATIONS:

In a civil action brought against a non-hospital charitable organization for damages based on an act or omission by the organization, its employees or its volunteers, the liability of the organization is limited to a maximum amount of \$500,000 per person and \$1,000,000 per occurrence for bodily injury or death and \$100,000 for injury to or destruction of property. SB 455 passed effective September 1, 1997, amends the law to permit the insurance coverage requirement of the law to be satisfied by a policy providing limits of \$1,000,000 Combined Single Limit.

LOOPHOLES:

The limitations and immunities of this law have not been tested in court. A law is always subject to being overturned by the Texas Supreme Court. The law only limits recovery for ***bodily injury*** and ***property damage***. It does not limit other potential claims such as libel, slander or discrimination. The law does not apply to the duties or liabilities of a board member or an officer to the organization or its members. Nor does the law prohibit plaintiffs from filing suit. These suits must still be defended, and usually at a great expense.

The limits on liability stated in the law do not apply to charitable organizations that do not have liability insurance in effect. This also means that reduction of limits by paid claims charged against the aggregate limit on General Liability policies could reduce the limit below the cap, creating a continued need to consider Umbrella Liability coverage.

RECOMMENDATIONS:

Should a charitable organization carry liability insurance? **Yes, yes, yes.**

Should coverage be limited to \$1,000,000 CSL? **No.**

Should a charitable organization carry D & O Liability? **Yes.**

Should a charitable organization carry Employment Practices Liability? **Yes.**

Employee Benefits Liability & Fiduciary Liability

The Misunderstood Exposures

Employee Benefits Liability

- Usually available freely on most CGL policies.
- Very little – if any – underwriting.
- Errors & Omissions coverage.
- Arising out of administration of employee benefit plans.

EBL Coverages

- Covers mistakes in:
 - ❖ Enrolling group insurance plans.
 - ❖ Transmitting employee instructions for changes in benefits.
 - ❖ Wrongful termination of benefits.
 - ❖ Not offering benefits to employees when eligible.

Employee Benefits Liability Policy

- Claims-Made Basis
- Small premium (\$50 to \$100).
- Most exclude ERISA claims.
- No coverage for critical discretionary judgment exposures.
- VERY DIFFERENT FROM FIDUCIARY LIABILITY INSURANCE.

What is Fiduciary Liability?

- ERISA 1974
- The Mother of all benefits legislation.
- Addresses virtually ALL employee benefit plans – not just retirement and profit sharing plans.
- The ONLY insurance coverage mandated by ERISA is Employee Dishonesty coverage (ERISA bonds) for minimum of 10% of each plan's assets.
- ERISA Section 410(a)
 - ❖ Strong personal liability on ANY person considered a “Fiduciary” under the broad definition in the Act.
- Indemnification provided by corporate bylaws *DO NOT APPLY* to this personal liability.
- ERISA 410(b) allows affected “Fiduciary” to purchase liability protection for this exposure.

Fiduciary Liability (Tillinghast Towers Perrin survey)

- Average defense cost per claim:
 - ❖ \$365,000
- Average non-defense indemnity costs:
 - ❖ Just under \$1,000,000

Fiduciary Liability Allegations

- Lack of proper communication by employer.
- Lack of historical investment return information provided by employer.
- Failure to warn of potential danger in certain investment choices.
- Stock value (entity stock) in 401(k) declines can bring “managerial malpractice” cause of action. (See ENRON!)
- Employee Stock Option Plans (ESOP’s)
 - ❖ Allegations of company mismanagement
- Employer use of managed care arrangements such as:
 - ❖ HMO’s
 - ❖ PPO’s
 - ❖ POS plans
- Third-Party Administrators (TPA’s)
 - ❖ Does NOT relieve employer of personal liability
 - ❖ Personal liability aspect of ERISA CANNOT be delegated to another person or organization.
 - ❖ Even if TPA carries E&O liability, would it be sufficient to cover total assets of plan in question?
- HIPAA Exposures
 - ❖ “Final Compliance” rules – April 2004
 - ❖ Mandates continuance of health insurance benefits.
 - ❖ Mandates safeguarding of employee health information.
 - ❖ Significant fines for proven violations.
 - HIPAA coverage endorsements generally available and desirable.
- Patient Protection and Affordable Care Act (PPACA)
 - ❖ Providing health benefits that are noncompliant with the PPACA requirements
 - ❖ Failing to file health coverage reports to Health & Human Services
 - ❖ Cutting employees’ hours or terminating employees to avoid providing health insurance
 - ❖ January 1, 2015, applies to employers with 100 full time employees
 - ❖ January 1, 2016, applies to employers with 50 or more full time employees

Fiduciary Liability Settlements

- First Union – 2001
 - ❖ 100,000 current & former employees
 - ❖ \$30 million
- Enron – 2004
 - ❖ Former employees & retirees
 - ❖ \$80 million
- Limits are easily available up to \$15 million
- The higher the limit, the larger the per claim deductible.

Fiduciary Liability Coverage

- More than just “ERISA Liability”
- Should include “non-qualified” plans (those not subject to ERISA)
 - ❖ Executive deferred benefit plans
- Should include ***ANY CONCEIVABLE DISCRETIONARY JUDGMENT ACTION.***
- Should not have a claims retroactive date.
- Should include a HIPAA extension.

Why Fiduciary Liability?

- Most D&O policies exclude ERISA.
- No other insurance coverage available for these exposures.
- No provision in statutes for corporate bylaw indemnification for ERISA personal liability.
- Covers allegations of liability for management of benefit plan assets.
- Covers decisions such as choice of TPA.

Fiduciary Issues to Consider

- Demands of employees.
- Benefit plan options.
- Enrollment periods.
- Continuous changes in individual coverage details.
- Busy human resources managers.
- Screwups.
- ERISA personal liability assessment.
- ERISA legislation and changes.
- State continuation plans.
- Medical Savings Accounts (MSA's).
- Personal Social Security accounts.
- Growing liability of corporate executives and business owners.

Conclusion & Summary

- Highly desirable & valuable coverages.
- Great way to round out any account.
- Excellent E & O Prevention!

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Fiduciary Liability Exhibits

Who is a Fiduciary?

According to ERISA, a person is a plan fiduciary if he or she:

- Is named in the plan document or is identified as a fiduciary by the sponsor of the plan.
- Exercises any discretionary authority or control with respect to plan management or the disposition of the plan's assets.
- Renders investment advice for a fee...or has authority to do so.
- Has discretionary authority with respect to plan administration.

A person becomes a fiduciary by simply exercising authority or control. ERISA does not actually require a fiduciary to be named. It is really a function of what the person is doing in connection with the plan, right or wrong.

Example:

Even if a person has not been appointed a fiduciary, but that person then extorts money from the plan (doing something where they are essentially exercising control), even if not authorized to do it, they have become a fiduciary as far as ERISA is concerned.

Examples of Pension Plans are:

- Defined benefit pension plans (those plans that state the exact benefit to be received by a participant/beneficiary upon retirement).
- Defined contribution pension plans (those plans in which benefits are based solely on the amount contributed to the account.)

Examples of Welfare Plans are:

- Medical, dental, life, disability, flexible spending, accidental death



Fiduciary Liability Coverage

TOP 5 REASONS YOUR ORGANIZATION NEEDS COVERAGE

1 A fiduciary – any individual involved in the management of a retirement or health plan – can be at risk if they breach their duties and be **personally required to make the plan whole for any losses they caused.**

2 **Defending and resolving ERISA suits costs time and money.** The average settlement is \$994,000¹, average defense costs are \$365,000² and 69 percent of substantive ERISA litigation is resolved in favor of the plaintiffs.³

3 **You cannot avoid liability solely by blaming plan participants for their investment decisions.** Fiduciaries are responsible for providing a broad range of investment alternatives and minimizing the expenses associated with those investments. Since 2006, the plaintiff's bar has recovered more than \$170 million for excess expenses.⁴

4 **A fiduciary can be sued for not following the plan documents** and plan participants regularly sue claiming denial of benefits in violation of plan documents. More than 9,000 ERISA lawsuits are filed each year on average.⁵

5 **A fiduciary cannot escape responsibility by blaming a service provider.** According to the Department of Labor, it is the responsibility of the fiduciary to vet and monitor any outside vendor.



Wrap+[®], Select One+[®] and Executive Choice+[®] Fiduciary Liability coverage is specifically designed to cover defense costs and personal liability of fiduciaries. This coverage is critical to the well-being of any company – particularly given the growing exposures in today's volatile climate. It covers a company's benefit plans and helps protect its directors, natural person trustees, officers and employees from costly litigation.

¹ Towers Perrin Tillinghast Survey

² Towers Perrin Tillinghast Survey

³ Pension Litigation Data: ERISA Litigation Study, April 2009

⁴ Reuters: How 401k lawsuits are bolstering your retirement plan, November 2013

⁵ USCourts.gov (2007-2011)

Available through the *Wrap+[®], SelectOne+[®] and Executive Choice+[®]* product suites.

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Management and Professional Liability Claim Scenarios

Fiduciary Liability

Self-dealing and breach of fiduciary duty – pension plan

- **The Facts:** ABC Corp. is a biotechnology company. It had a profit sharing and pension plan for its employees. The trustee of the plan decided to hire an investment consultant for investment advice. As the trustee's brother was a well-known investment consultant, he hired him for the position and paid him \$300,000/yr. After the plan lost significant value due to bad investments, the plan participants filed a lawsuit against the trustee alleging violations of ERISA including self-dealing and breach of fiduciary duty. The participants alleged that the trustee violated ERISA by hiring his brother for the position and paying him an exorbitant fee out of the plan assets.
- **The Bottom Line:** Defense costs totaled \$75,000 and the parties settled for \$500,000.

Misrepresentations – long term disability plan

- **The Facts:** XYZ is a manufacturing company which specializes in women's apparel and had a long term disability program for its employees. A few years ago, one of its employees, Mr. Smith, was injured in an automobile accident. He called the HR manager at XYZ who told him he would not be eligible for disability benefits under the program because he was not employed at XYZ for long enough. The HR manager did not realize that Mr. Smith was covered under an exception to the policy and was eligible for benefits.
- **The Bottom Line:** Mr. Smith sued XYZ and the plan for violation of ERISA and demanded lost benefits and attorneys fees. He was awarded \$95,000 in lost benefits as well as an additional \$200,000 for attorney fees.

Failure to pay fair market value for shares – ESOPs

- **The Facts:** ABC corp. is a large home builder company. It has an ESOP plan for its employees. In anticipation of his retirement, the CEO sold his shares in the company to the ESOP for a price set by the ESOP trustees. The employee/participants filed a lawsuit for breach of fiduciary duty alleging that the price paid for the shares was excessive and the trustees did not conduct a prudent and independent investigation into the fair market value for the shares.
- **The Bottom Line:** This matter was settled for \$1 million and defense costs exceeded \$100,000.

(Note: ESOP coverage available only with Epack, NOT Epack EZ)



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Fiduciary Liability Insurance

Valuable protection your business can't do without

"I don't sponsor a pension plan – just an employee-directed 401(k) plan – so I don't need Fiduciary Liability insurance, right?"

You've worked too hard and sacrificed so much to build a successful business, so don't let the actions of others put your business at financial risk. As a trustee of any welfare or benefit plan for your employees, you can be held personally liable for your actions or inactions in regard to those plans.

Now is the perfect time to make sure you have Fiduciary Liability insurance to protect your business and your personal financial well-being. The Hartford provides Fiduciary Liability insurance that offers vital coverage:

- With regard to your pension and welfare benefit plans
- For errors and omissions in the administration of your plans
- For allegations of mismanagement, breach of duty, and neglect and violations of the Employment Retirement Income Security Act (ERISA)

About ERISA

In 1974, Congress passed ERISA, the federal law governing employment benefits. ERISA sets min-

imum standards and legal guidelines for most voluntarily established pension and health plans in private industry. As a means to provide protection for participants in these plans, ERISA:

- Requires plans to provide participants with important information about plan features and funding
- Provides fiduciary responsibilities for those who manage and control plan assets
- Requires plans to establish a grievance and appeals process for participants to obtain benefits from their plans
- Gives participants the right to sue for benefits and breaches of fiduciary duty

Claim Example

When the Bubble Bursts

A private company sponsored a 401(k) plan with a company match for its employees, in lieu of a traditional pension plan. The company contracted with an outside investment advisor to manage the plan. During the late 1990s, the employees talked about how well they were doing in the plan, especially those who invested in the risky technology-based mutual fund. When a long-time employee heard other employees, including the Human Resources manager, talking about their great return, he decided to move most of his 401(k) plan money into the same fund.

continued



The employee was one year from retirement when the value of his plan dropped nearly 40% over a 12-month period. The employee sued his employer and, as a trustee of the plan, the Human Resources manager, alleging misleading statements and violation of fiduciary duty in regards to the 401(k) plan. After a lengthy trial, the employer was found liable, and the Human Resources manager was found to have made misleading statements as a trustee of the plan.

Result

Trial Award \$175,000
 Attorney Fees..... \$110,000
Total \$285,000

Other Claim Examples

Here are other examples of the types of Fiduciary Liability claims that can be brought against midsize companies:

- Allegations that the conversion to cash-balance plans is discriminatory based on age, denying older workers their benefits
- Allegations of mismanagement as a result of a merger or acquisition
- Claims arising from mergers or acquisitions, especially when employees see plans being changed or terminated, or when benefits are being reduced
- Errors and Omissions claims, alleging miscalculation of benefits during early retirement offerings
- Failure to adequately educate participants about the risks involved in investing in stocks

**"WHY SHOULD
 I CHOOSE
 FIDUCIARY
 LIABILITY
 INSURANCE
 FROM
 THE HARTFORD?"**

Decide for Yourself

To find out, answer these quick questions to see if our coverage meets your needs.

1. Does your company provide any of the following welfare or benefit plans for your employees?

- **Health insurance plans**
☐ Yes ☐ No
- **Unemployment insurance benefits**
☐ Yes ☐ No
- **401(k) or other self-directed retirement plan**
☐ Yes ☐ No
- **Traditional (defined benefit) pension plan**
☐ Yes ☐ No
- **Employee Stock Ownership Plan (ESOP)**
☐ Yes ☐ No
- **Stock option or preferred executive compensation plans**
☐ Yes ☐ No

2. Has your company's 401(k) plan ever decreased in value due to a drop in the stock market?

☐ Yes ☐ No

3. Does your company administer any of these plans in-house, including clerical work or paperwork to enroll employees in these plans?

☐ Yes ☐ No

4. In selecting an outside investment advisor to administer your pension benefit plan(s), did you choose an advisor without seeking professional advice, ratings or recommendations?

☐ Yes ☐ No

If you answered "Yes" to three or more of these questions, then Fiduciary Liability insurance from The Hartford is right for you!

To Learn More

For more information about Fiduciary Liability coverage from The Hartford, visit us on the Web at www.hfpinsurance.com.

The scenarios summarized above are offered only as examples. Coverage depends on the actual facts of each case and the terms, conditions and exclusions of each individual policy. Please refer to the policy to determine all terms, conditions, exclusions, and limitations of coverage. Coverage is provided by The Hartford companies and may not be available in all states.

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Section 2

Cyber Risk – Exposures and Products

CYBER RISK EXPOSURES & PRODUCTS

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TOPICS

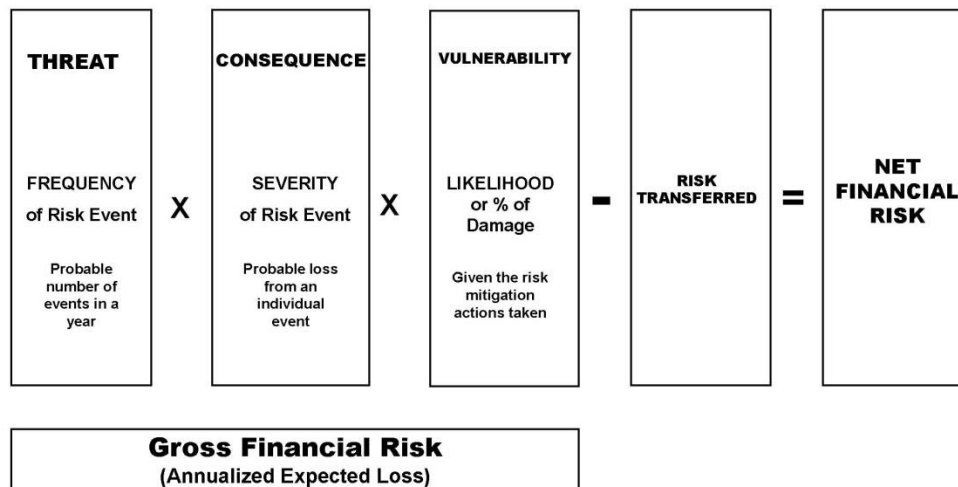
- What is E-Commerce?
- Examples and Classes of Business
- Agent Concentration Areas
- Agent Tips and Selling Points
- Internet Terms and Cyber Threats
- E-Commerce Exposures to Loss
- Typical Cyber Liability Policy
- ISO E-Commerce Program
- Markets for Cyber Insurance
- Exhibits

CYBER ISSUES & CONSIDERATIONS

What is E-Commerce?

- ♦ Buying and selling products or services over electronic systems such as the Internet and computer systems.
- ♦ It includes the entire online process of developing, marketing, selling, delivering, servicing and paying for products and service.

Calculating Cyber Risk



Sources: Internet Security Alliance, American National Standards Institute

WHY CYBER?

1 Cyber crime is the fastest growing crime in the world, but most attacks are not covered by standard property or crime insurance policies.

New crimes are emerging every day. The internet means that your business is now exposed to the world's criminals and is vulnerable to attack at any time of the day or night. Phishing scams, identity theft, and telephone hacking are all crimes that traditional insurance policies do not address. Cyber insurance can provide comprehensive crime cover for a wide range of electronic perils that are increasingly threatening the financial resources of today's businesses.

2 Systems are critical to operating your day to day business but their downtime is not covered by standard business interruption insurance.

All businesses rely on systems to conduct their core business, from electronic point of sales software to hotel room reservation systems. In the event that a hack attack, computer virus or malicious employee brings down these systems, a traditional business interruption policy would not respond. Cyber insurance can provide cover for loss of profits associated with a systems outage that is caused by a "non physical" peril like a computer virus or denial of service attack.

3 Data is one of your most important assets yet it is not covered by standard property insurance policies.

Most businesses would agree that data or information is one of their most important assets. It is almost certainly worth many times more than the physical equipment that it is stored upon. Yet most business owners do not realise that a standard property policy would not respond in the event that this data is damaged or destroyed. A cyber policy can provide comprehensive cover for data restoration and rectification in the event of a loss up to the full policy limits.

4 Third party data is valuable and you can be held liable if you lose it.

We all hold more data than ever before and often this data belongs to our customers and suppliers. Non-disclosure agreements and commercial contracts often contain warranties and indemnities in relation to the security of this data that can trigger expensive damages claims in the event that you experience a breach. Increasingly, consumers are also seeking legal redress in the event that a business loses their data. This risk is further heightened in the event that you hold any data on US consumers.

5 Retailers face severe penalties if they lose credit card data.

Global credit card crime is worth over \$7.5bn and increasingly this risk is being transferred to the retailers that lose the data*. Under merchant service agreements, compromised retailers can be held liable for forensic investigation costs, payment card reissuance costs and the actual fraud conducted on stolen cards. These losses can run into hundreds of thousands of dollars for even a small retailer. Cyber insurance can help protect against all of these costs.

6 Complying with breach notification laws costs time and money.

Breach notification laws are slowly being introduced across many different countries. These generally require businesses that lose sensitive personal data to provide written notification to those individuals that were potentially affected. Even though a legal obligation to notify only currently exists in some countries, this is changing and there is a growing trend towards voluntary notification in order to protect your brand and reputation. Customers who have had their data compromised expect openness and transparency from the businesses they entrusted it with. Cyber policies can provide cover for the costs associated with providing a breach notice even if it is not legally required.

7 Your reputation is your number one asset, so why not insure it?

Any business lives and dies by its reputation. Although there are certain reputational risks that can't be insured, you can insure your reputation in the event of a security breach. When your systems have been compromised, you run a risk of losing the trust of your loyal customers which can harm your business far more than the immediate financial loss. Cyber insurance can not only help pay for the costs of engaging a PR firm to help restore this, but also for the loss of future sales that arise as a direct result of customers switching to your competitors.

8 Social media usage is at an all-time high and claims are on the rise.

Social media is the fastest growing entertainment channel in the world. Information is exchanged at lightning speed and exposed to the world. But often there is little control exercised over what is said and how it is presented and this can give rise to liability for businesses who are responsible for the actions of their employees on sites such as LinkedIn, Twitter and Facebook. Cyber insurance can help provide cover for claims arising from leaked information, defamatory statements or copyright infringement.

9 Portable devices increases the risk of a loss or theft.

The advent of portable devices and the ability to work away from the office has made life a lot easier for many of us. However, this new style of working also means that important and confidential data can be stolen or lost much more easily. A laptop left on a train, an iPad stolen in a restaurant, or a USB stick going missing are all good examples. In addition, the devices themselves are being targeted with a growing number of viruses being built just for them. Cyber insurance can help cover the costs associated with a data breach should a portable device be lost, stolen or fall victim to a virus.

10 It's not just big businesses being targeted by hackers, but lots of small ones too.

Whilst the large-scale hack attacks on the news often involve big companies, small companies are also at risk and often don't have the financial resources to get back on track after a hacking attack or other kind of data loss.

Interested in a quote or have a question on coverage?
Please email Anthony Howley at
anthony@evolveimga.com

Areas of Agent Concentration

Firms using E-Commerce to enhance their daily business, but no programming or Internet services – DATA OWNERS

Does business via the internet but provides no programming or internet services to other.

- **Types of Data Owners**

1. Restaurants
2. Hotels
3. Healthcare
4. Schools
5. Retail
6. Lawyers
7. Insurance Agencies

- **Potential claims sources include:**

1. Theft of credit card information by hackers
2. Privacy: information stolen by hackers
3. Libelous information or incorrect information
4. Malicious postings by disgruntled employees
5. Chat rooms or bulletin boards where people disparage products or other people

- **Examples:**

1. Website
2. Online Sales
3. Business Transactions
4. Email
5. Accounting

- ♦ **E-Business Activities Covered**

1. E-Mail
2. Electronic Publishing
3. Employee Remote Access
4. Employee Web Access
5. Customer Account Access

Primary Information Exposures

PII – Personally Identifiable Information

Personally identifiable information (PII) is any data that could potentially identify a specific individual. Any information that can be used to distinguish one person from another and can be used for de-anonymizing anonymous data can be considered **PII**.

- ◆ Credit Card Information
 - ◆ Personal Financial Information
 - ◆ Social Security Numbers
 - ◆ Driver's License Numbers
 - ◆ Banking Information / Account Numbers
 - ◆ Employment Information
 - ◆ Insurance Information
- PII generally does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

PHI – Protected Health Information

Protected health information (PHI) under US law is any information about health status, provision of health care, or payment for health care that is created or collected by a Covered Entity (or a Business Associate of a Covered Entity), and can be linked to a specific individual. This is interpreted rather broadly and includes any part of a patient's medical record or payment history.

- ◆ Medical Records
- ◆ Medical Health Information
- ◆ Medical Insurance Information
- ◆ Treatments/Dates
- ◆ Medical Providers

Business Information

Confidential **information**, such as ideas for expanding a specific **business**, falls between general unprotected ideas and **protected** trade secrets. Confidential **business information** held by certain individuals, such as the directors and officers of a corporation, may be **protected** from disclosure by fiduciary obligations.

- ◆ Trade Secrets
- ◆ Financials
- ◆ Business Methods
- ◆ Transactions

Biometric Information

- ◆ Physiological way of identification
- ◆ Fingerprints
- ◆ Facial Recognition
- ◆ DNA
- ◆ Retina Recognition

EU General Data Protection Regulation

- ◆ The **General Data Protection Regulation** (EU) 2016/679 ("GDPR") is a regulation in EU law on data protection and privacy for all individuals within the European Union (EU) and the European Economic Area (EEA).
- ◆ It also addresses the export of personal data outside the EU and EEA areas. The GDPR aims primarily to give control to individuals over their personal data and to simplify the regulatory environment for international business by unifying the regulation within the EU
- ◆ The GDPR was adopted on April 14, 2016 and became enforceable beginning May 25, 2018. As the GDPR is a regulation, not a directive, it is directly binding and applicable.

Ten Common Myths of PCI DSS

The Payment Card Industry Data Security Standard (PCI DSS) secures cardholder data that is stored, processed or transmitted by merchants and processors. PCI DSS specifies 12 requirements entailing many security technologies and business processes, and reflects most of the usual best practices for securing sensitive information.

The resulting scope is comprehensive and may seem daunting – especially for smaller merchants who have no existing security processes or IT professionals who help guide them through what is required and what is not. To complicate matters, some vendors who sell security products or services market their products in a broader context than just the PCI DSS requirements. As a result, retailers who are new to security may harbor myths about the PCI DSS. The PCI Security Standards Council presents ten common myths about PCI DSS to help your business optimize protection of cardholder data and ensure compliance with the standard.



GOALS OF PCI DSS

- Build and maintain a secure network
- Protect cardholder data
- Maintain a vulnerability management program
- Implement strong access control measures
- Regularly monitor and test networks
- Maintain an information security policy

Myth 1 – One vendor and product will make us compliant

Many vendors offer an array of software and services for PCI compliance. No single vendor or product, however, fully addresses all 12 requirements of PCI DSS. When marketing focuses on one product's capabilities and excludes positioning these with other requirements of PCI DSS, the resulting perception of a "silver bullet" might lead some to believe that the point product provides "compliance," when it's really implementing just one or a few pieces of the standard. The PCI Security Standards Council urges merchants and processors to avoid focusing on point products for PCI security and compliance. Instead of relying on a single product or vendor, you should implement a holistic security strategy that focuses on the "big picture" related to the intent of PCI DSS requirements.

Myth 2 – Outsourcing card processing makes us compliant

Outsourcing simplifies payment card processing but does not provide automatic compliance. Don't forget to address policies and procedures for cardholder transactions and data processing. Your business must protect cardholder data when you receive it, and process charge backs and refunds. You must also ensure that providers' applications and card payment terminals comply with respective PCI standards and do not store sensitive cardholder data. You should request a certificate of compliance annually from providers.

Myth 3 – PCI compliance is an IT project

The IT staff implements technical and operational aspects of PCI-related systems, but compliance to the payment brand's programs is much more than a "project" with a beginning and end – it's an ongoing process of assessment, remediation and reporting. PCI compliance is a business issue that is best addressed by a multi-disciplinary team. The risks of compromise are financial and reputational, so they affect the whole organization. Be sure your business addresses policies and procedures as they apply to the entire card payment acceptance and processing workflow.

PCI AT-A-GLANCE

(visit www.pcisecuritystandards.org for more information)

Overview

Getting Started with PCI DSS

10 Common Myths of PCI DSS

Data Security Do's and Don'ts

Getting Started with PA-DSS

Getting Started with PCI PED

Myth 4 – PCI will make us secure

Successful completion of a system scan or assessment for PCI is but a snapshot in time. Security exploits are non-stop and get stronger every day, which is why PCI compliance efforts must be a continuous process of assessment and remediation to ensure safety of cardholder data.

Myth 5 – PCI is unreasonable; it requires too much

Most aspects of the PCI DSS are already a common best practice for security. The standard also permits the option using compensating controls to meet some requirements. The standard provides significant detail, which benefits merchants and processors by not leaving them to wonder, "Where do I go from here?" This scope and flexibility leads some to view PCI DSS as an effective standard for securing *all* sensitive information.

Myth 6 – PCI requires us to hire a Qualified Security Assessor

Because most large merchants have complex IT environments, many hire a QSA to glean their specialized value for on-site security assessments required by PCI DSS. The QSA also makes it easier to develop and get approval for a compensating control. However, PCI DSS provides the option of doing an internal assessment with an officer sign-off if your acquirer and/or merchant bank agrees. Mid-sized and smaller merchants may use the Self-Assessment Questionnaire found on the PCI SSC Web site to assess themselves.

Myth 7 – We don't take enough credit cards to be compliant

PCI compliance is required for any business that accepts payment cards – even if the quantity of transactions is just one.

Myth 8 – We completed a SAQ so we're compliant

Technically, this is true for merchants who are not required to do on-site assessments for PCI DSS compliance – for that particular moment in time when the Self-Assessment Questionnaire and associated vulnerability scan (if applicable) is completed. After that moment, only a post-breach forensic analysis can prove PCI compliance. But a bad system change can make you non-compliant in an instant. True security of cardholder data requires non-stop assessment and remediation to ensure that likelihood of a breach is kept as low as possible.

Myth 9 – PCI makes us store cardholder data

Both PCI DSS and the payment card brands *strongly* discourage storage of cardholder data by merchants and processors. There is no need, nor is it allowed, to store data from the magnetic stripe on the back of a payment card. If merchants or processors have a business reason to store front-card information, such as name and account number, PCI DSS requires this data to be encrypted or made otherwise unreadable.

Myth 10 – PCI is too hard

Understanding and implementing the 12 requirements of PCI DSS can seem daunting, especially for merchants without security or a large IT department. However, PCI DSS mostly calls for good, basic security. Even if there was no requirement for PCI compliance, the best practices for security contained in the standard are steps that every business would want to take anyway to protect sensitive data and continuity of operations. There are many products and services available to help meet the requirements for security – and PCI compliance. When people say PCI is too hard, many really mean to say compliance is not cheap. The business risks and ultimate costs of non-compliance, however, can vastly exceed implementing PCI DSS – such as fines, legal fees, decreases in stock equity, and especially lost business. Implementing PCI DSS should be part of a sound, basic enterprise security strategy, which requires making this activity part of your ongoing business plan and budget.

Firms working solely in the E-Commerce/Technology field for others – DATA PROCESSORS

Your entity programs for others, hosts internet sites and is generally in the business of programming and/or the internet.

Potential claims sources include:

- ◆ This entity will also have its own website and be subject to claims related to its own website
- ◆ Bad programming could permit hackers to download private information from customer sites
- ◆ Programming bugs can shut down a site or otherwise mangle customer orders. Programming errors can also incorrectly account for income, expenses or tax information
- ◆ These entities are often subject to denial of service attacks by hackers. Denial of service attacks usually involve overloading the site with huge numbers of requests for information or e-mails that look to the computer like legitimate inquiries from customers or users. The website usually becomes so jammed it cannot permit legitimate customers entry. Losses can come from contracts that require the host to maintain service 24 hours per day.

Examples:

- ◆ Website Hosts
- ◆ Website Designers
- ◆ Programmers
- ◆ Network Professionals
- ◆ Software Firms
- ◆ Repair and Installation Firms
- ◆ Systems Integration and Design
- ◆ Value-Added Resellers
- ◆ Information Technology Consultants
- ◆ Online Information Retrieval Firms

Technology E&O Issues

- Technology E&O incidents result in much larger losses
- Average technology E&O claim is 20 times higher than next most severe type of loss
- Types of Technology E&O incidents
 1. Misunderstanding between buyer and seller
 2. Misrepresentation by vendors
 3. Acceptance of unrealistic specifications or changes in existing specifications without study or written agreement
 4. Hold harmless agreements
 5. Incompatible hardware and/or software
 6. Corruption of data migrated from legacy data bases and systems
 7. Delays in project completion

Tips for Agents – Overcoming Clients’ Pushback

From an article in My New Markets.com from *The Insurance Journal*.

Author: *Matt Cullina, is the chief executive officer of IDentity Theft 911, a consultative provider of identity and data risk management, resolution and education services.*

1. Examine the type of data that's potentially at risk.
2. Evaluate technical resources.
3. Remind them of the financial implications.
4. Provide case studies and anecdotal evidence of the dangers.
5. Highlight the need for cyber liability coverage as part of a larger insurance suite.

Top 5 Questions Clients Ask About Cyber Liability

1. Doesn't my General Liability Policy (or Umbrella) cover me?
2. How much is this coverage going to cost?
3. We have an IT department and we have firewalls. Isn't that enough?
4. We use a third party for reservations and credit cards. Do we still need this coverage?
5. What are our state's privacy laws, fines and penalties?



5 Reasons Why E-Commerce Needs Cyber Insurance

1

NOTIFICATION & FORENSIC COSTS

Accepting credit cards is the norm of any e-commerce business. Hundreds or even thousands of customers may be swiping their cards via your company's website on a daily basis. When this information is breached, the online retailer typically has the responsibility to notify each of the respective parties. Additionally, the forensic investigation costs analyzing the extent of the breach, accrue rather quickly.

2

BUSINESS INTERRUPTION

As an online retailer, when your system or website goes down, your business goes down. This results in a massive probability of lost profit as you are unable to sell goods and perform transactions online. Additionally, the behind the scenes day to day operations can be effected if employees are unable to access programs they rely on for their daily activities. This stoppage can cripple a business and needs to be covered.

3

REPUTATIONAL HARM

E-Commerce companies rely heavily on their reputation to make sure their customers return. A data breach can shatter confidence in an online retailer and will result in consequential reputational harm. This is an exposure a good cyber policy will cover.

4

CYBER CRIME

When a hacker holds your business's information or website hostage via ransomware, it's called cyber extortion. There has also been a heavy spike in Social Engineering claims, where a third party tricks an employee into transferring funds into a fraudulent account; also known as Funds Transfer Fraud.

5

PCI FINES, PENALTIES, & ASSESSMENT COSTS

The Payment Card Industry will fine online retailers for not taking appropriate steps to protect customer's credit/debit card information. These fines start around \$5k - \$10k monthly and can go upwards of \$100k - \$500k monthly depending on the size of the breach. Additionally, a breached online retailer can be responsible for the cost of reissuing credit/debit cards and fraudulent charges on each stolen card. It can cost anywhere from \$2 - \$13 to reissue each individual card and \$285 - \$665 in fraud costs per card.

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"There are two types of companies: those who have been hacked and those that will be."

Robert Mueller, FBI Director 2012

CLAIMS EXAMPLES



Acer Service Corporation – In 2016, the computer manufacturer, Acer identified a security issue involving the information of certain customers who used their ecommerce site between 5/12/15 and 4/28/16, which resulted in unauthorized access by a third party. The information compromised included names, addresses, card numbers, expiration dates and three-digit security code on the back of cards. The extent of the breach is not yet known.



Park 'N Fly – In 2014, PNF confirmed they were victimized in a data breach affecting payment card data processed through its e-commerce website. It was "determined that the security of some data from certain payment cards that were used to make reservations through PNF's e-commerce website was at risk." The data at risk included the card number, cardholder's name and billing address, card expiration date, and CVV code. Notification, Forensic and Credit Monitoring costs were assessed.



Alibaba - In November 2015, Alibaba, an e-commerce giant, found over 20 million of their customers' accounts to be compromised after hackers obtained a database of 99 million user-names and passwords from a number of websites. The attackers used these hacked accounts to place fake orders and also sold the accounts, so they could be used for fraud. While the attack started in mid-October, it was not discovered until November.



Staples - Office-supply retailer, Staples.com, was breached in October 2014 due to a specialized piece of malware that exposed over 1.2 million credit cards including the cardholder names, actual card numbers, expiration dates, as well as the three-digit credit card verification code. In response to the cyber-attack, Staples offered customers free identity protection, credit monitoring, identity theft insurance, and a free credit report.

COST ANALYSIS

What does it cost your business when 100,000 records are breached?

\$850,000



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Cyber Event – Three Parts

- ♦ Discovery
- ♦ Investigation
- ♦ Response / Remediation

Internet Terms Defined

- **Frames**—A method of coding a web page to divide the layout into two or more independent parts. (Source: <http://www.netlingo.com>)
- **Links**—Text or images on a Web page that a user can click on in order to access or connect to another document. (Source: <http://www.netlingo.com>)
- **Chat rooms and bulletin boards**—variation on the interactive message board, it is a web site for live, online conversation in which any number of computer users can type messages to each other and communicate. (Source: <http://www.netlingo.com>)

Monitoring Chat Sites

People can be rude and even post libelous, untrue, or malicious statements about individuals and companies on a bulletin board or chat room. Chat rooms and bulletin boards can be monitored to police such activity, but that monitoring activity may increase the chat room or bulletin board operator's liability. Court cases are mixed.

Communications Decency Act of 1996 (47 U.S.C. § 230 et seq.) ("CDA") tried to resolve this issue to give immunity to chat sites and bulletin boards for postings by others, but this law was declared unconstitutional by the US Supreme court. Recent court decisions have been mixed as to whether a bulletin board host is liable for the publication of others. What is clear in these court cases is that if the operator of the bulletin board or chat site becomes aware that posted materials are illegal, libelous or violate trademarks or copyrights, they have a responsibility to remove the offensive materials immediately or become liable for continued posting,

- **Domain name**—The address or URL of a particular Web site, it is the text name corresponding to the numeric IP address of a computer on the Internet. For example: www.netlingo.com is the domain name for the numeric IP address "66.201.69.207." (Source: <http://www.netlingo.com>)

- **Meta Tags**—An optional HTML tag that contains information about a Web page. Some search engines, such as AltaVista, use spiders that index Web pages based on meta tags. (Source: <http://www.netlingo.com>)
- **Spam**—An e-mail message sent to a large number of people without consent, also known as Unsolicited Commercial E-mail (UCE) or junk e-mail. (Source: <http://www.netlingo.com>)
- **Viruses** (definitions from McAfee Security available at <http://www.mcafee.com>)
 - ◆ **What is a Virus?**
 - A virus is a man-made program or piece of code that causes an unexpected, usually negative, event. Viruses are often disguised games or images with clever marketing titles such as "Me, nude."
 - ◆ **What is a Worm?**
 - Computer Worms are viruses that reside in the active memory of a computer and duplicate themselves. They may send copies of themselves to other computers, such as through email or Internet Relay Chat (IRC).
 - ◆ **What is a Trojan horse?**
 - A Trojan horse program is a malicious program that pretends to be a benign application; a Trojan horse program purposefully does something the user does not expect. Trojans are not viruses since they do not replicate, but Trojan horse programs can be just as destructive. Many people use the term to refer only to non-replicating malicious programs, thus making a distinction between Trojans and viruses.

COMMON CYBER THREATS

- **Backdoor:** A program that bypasses normal authentication mechanisms and security controls, giving criminals remote access to a system.
- **Blockchain:** A **blockchain** is a digitized, decentralized, public ledger of all cryptocurrency transactions. Currently, the technology is primarily used to verify transactions, within digital currencies though it is possible to digitize, code and insert practically any document into the **blockchain**.
- **Botnet:** A botnet is an interconnected network of computers infected with malware without the user's knowledge and controlled by cybercriminals. They're typically used to send spam emails, transmit viruses and engage in other acts of cybercrime. Sometimes known as a zombie army, botnets are often considered one of the biggest online threats today.

The word Botnet is formed from the words ‘robot’ and ‘network’. Cybercriminals use special Trojan viruses to breach the security of several users’ computers, take control of each computer, and organize all of the infected machines into a network of ‘bots’ that the criminal can remotely manage.

- **Crypto-Currency:** a digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, operating independently of a central bank. Decentralized cryptocurrencies such as bitcoin now provide an outlet for personal wealth that is beyond restriction and confiscation"
- **Crypto-Heist:** Hackers typically steal money from crypto exchanges by gaining access to their internet-connected wallet, which stores the funds of customers. Hackers have repeatedly cracked open the virtual vaults where they’re stashed, stealing billions of dollars worth of assets over the years.
- **Form-Grabber:** A malicious code that intercepts data from Web-based forms before it is encrypted, thus circumventing security measures. This code is often used to collect usernames and passwords.
- **Hacking:** Hacking refers to “all attempts to intentionally access or harm information assets without authorization, or in excess of authorization by thwarting logical security mechanisms” (Verizon’s 2012 *Data Breach Investigations Report*).
- **Keylogger:** Hardware or software that captures individual keystrokes on a keyboard. Criminals use keylogging to collect usernames and passwords.
- **Malware:** Any malicious software, script or code intended to damage a computer, mobile device, computer system, or computer network, or to take partial control over its operation.
- **Social Engineering (Fraudulent Impersonation):** Any means of exploiting people through deception, manipulation and intimidation.
- **Spyware:** Software that aids in gathering information, including data and computer usage, without the knowledge or permission of the computer user.
- **Phishing:** Phishing is an e-mail fraud method in which the perpetrator sends out legitimate-looking email in an attempt to gather personal and financial information from recipients. Typically, the messages appear to come from well-known and trustworthy Web sites. Web sites that are frequently spoofed by phishers include PayPal, eBay, MSN, Yahoo, BestBuy, and America Online. A phishing expedition, like the fishing expedition it's named for, is a speculative venture: the phisher puts the lure hoping to fool at least a few of the prey that encounter the bait.
- **Spear-Phishing:** Involves the use of the messages disguised to appear as valid; in fact, they contain targeting, malicious attempts to access sensitive or confidential information.

- **Pretexting:** Pretexting is a form of social engineering in which an individual lies to obtain privileged data. A pretext is a false motive.

Pretexting often involves a scam where the liar pretends to need information in order to confirm the identity of the person he is talking to. After establishing trust with the targeted individual, the pretexter might ask a series of questions designed to gather key individual identifiers such as confirmation of the individual's social security number, mother's maiden name, place or date of birth or account number.

- **Scareware:** Scareware involves tricking the victim into thinking his computer is infected with malware or has inadvertently downloaded illegal content. The attacker then offers the victim a solution that will fix the bogus problem. In reality, the victim is simply tricked into downloading and installing the attacker's malware.
- **Social Engineering:** Social engineering is a form of techniques employed by cybercriminals designed to lure unsuspecting users into sending them their confidential data, infecting their computers with malware or opening links to infected sites. In addition, hackers may try to exploit a user's lack of knowledge. Thanks to the speed of technology, many consumers and employees don't realize the full value of personal data and are unsure how to best protect this information.
- **SQL Injection:** SQL injection is a technique used to take advantage of non-validated input vulnerabilities to pass SQL commands through a Web application for execution by a backend database. Attackers take advantage of the fact that programmers often chain together SQL commands with user-provided parameters, and can therefore embed SQL commands inside these parameters. The result is that the attacker can execute arbitrary SQL queries and/or commands on the backend database server through the Web application.

Viruses & Worms

- Melissa Virus
- SoBig Computer Worm
- MyDoom Computer Virus / Worm
- Sasser Worm
- Phishing Attacks
- Spear-Phishing Attacks

Computer Viruses :

- “The likelihood of a company experiencing a computer virus has approximately doubled for each of the past five years.”

International Computer Security Association (ICSA)

- **Bricking:** A cyber security breach that renders a computer device or Internet of Things Device (“IoT device”) non-functional for its intended purpose, if and only if, after reasonable efforts have been made, such device cannot be restored to the level of functionality that existed immediately preceding the cyber security breach.

Telecommunications and Internet Construction Losses

- Use of Independent Contractors
 - ◆ Leaving “Back Doors” through firewalls
 - ◆ Sabotage
- Hiring IT Employees In-House
 - ◆ Direct Losses
 - ◆ Business Interruption
 - ◆ Extra Expense

Employee-Related Exposures

- E-Mail & Voicemail
 - ◆ Mass mailing from one or more employees to others
 - ◆ Invasion of privacy
 - ◆ Brought by employees against employer
- Off-Site Telecommuting
- Labor Strikes
 - ◆ Shut-down of system
- Harassment / Cyber-Stalking
- Cyber-Blackmail
- Employee vs. employer
- Libel (Cyber-Libel or Cyber-Smearing)
 - ◆ Invasion of privacy brought against insured by third parties due to remarks created by employees.
- Fiduciary Liability
 - ◆ ERISA (Qualified & non-qualified plans)
 - ◆ On-line enrollment and administration

Typical Cyber Policy

- General Policy Conditions
- Declarations Page
 - ◆ Coverages
 - ◆ Limits
 - ◆ Sublimits
 - ◆ Aggregates
 - ◆ Deductibles / Retentions
- E-Commerce Professional Liability
 - ◆ Defense Costs – Inside or Outside Limits
 - ◆ High Limits of Liability
- Common Losses Covered
 - ◆ External Attacks to Systems
 - ◆ Internal Attacks to Systems
 - ◆ Loss or Corruption of Data – Viruses
 - ◆ Copyright Infringement
 - ◆ Libel / Slander
 - ◆ Breach of Privacy / Confidentiality
 - ◆ Criminal Rewards
 - ◆ Cyber Terrorism (Many policies do not list this exposure specifically)
 - ◆ Identity Theft or Credit Injury
 - ◆ Theft of Data / Trade Secrets
 - ◆ Breach of Security

Types of Coverage

1st-Party - Direct loss due to “injury” to electronic data or systems resulting from acts of others

- **Usual Coverages**
 1. Crisis Management
 2. Extortion
 3. Restoration Costs
 4. Business Interruption

3rd-Party Losses - Liability for financial losses or costs sustained by others resulting from Internet or other electronic activities

- **Usual Coverages**
 1. Network Liability
 2. Electronic Media Liability
 3. Regulatory Defense Costs
 4. Privacy Liability

1st Party Losses

1. Crisis Management

- Usually triggered by unauthorized access, introduction of malicious code, accidental or unauthorized release of private information, and denial of service attacks.
- Crisis Management typically pays for:
 - Investigation/forensic expenses
 - Mitigation expenses
 - Cost of advertisements
 - Notification expenses
 - Credit monitoring services
 - Cost of a public relations consultant.

Per Mark Greisinger, President of NetDiligence, a leading cybersecurity assurances company. www.NetDiligence.com

- Cyber-crime attorney: \$700/hour
- Investigation/Computer Forensics Fees: \$300 to \$700 an hour (to find out what happened, how to prevent/stop, type of data breached, etc.)
- Notification costs: mail notice letter to customers as much as \$14/customer.
- Credit Monitoring: \$10-\$12/year per person.
- Public Relations Firm: \$10,000/month or \$400/hour.

Sample Policy Language

ISO INFORMATION SECURITY PROTECTION CYBER POLICY

"Public relations expenses" means:

- a. Fees and costs of a public relations firm; and
- b. Any other reasonable expenses incurred by you with our written consent; to protect or restore your reputation solely in response to "negative publicity".

E. **Crisis Management and Public Relations**

To pay **Public Relations and Crisis Management Expenses** incurred by the **Insured Organization** resulting from a **Public Relations Event**. Such expenses are subject to the applicable **Retention** and the **Public Relations Event** Limit of Liability. **Public Relations Event** means:

1. the publication or imminent publication in a newspaper (or other general circulation print publication) or on radio or television of a covered **Claim** under this Policy; or
2. an incident described in Insuring Agreement I.A.1. or I.A.2. which results in the provision of **Privacy Breach Response Services**, or which reasonably may result in a covered **Claim** under the Policy and which the **Named Insured** has notified the Underwriters as a circumstance under Clause X.C. of this Policy.

Public Relations and Crisis Management Expenses shall mean the following costs agreed in advance by the Underwriters in their reasonable discretion, and which are directly related to mitigating harm to the **Named Insured's** reputation or potential **Loss** covered by the Policy resulting from the covered **Claim** or incident:

1. costs incurred by a public relations or crisis management consultant;
2. costs for media purchasing or for printing or mailing materials intended to inform the general public about the event;
3. costs to provide notifications to customers or patients where such notifications are not required by law ("voluntary notifications"), including notices to non-affected customers or patients of the **Insured Organization**;
4. costs to provide government mandated public notices related to breach events (including such notifications required under HIPAA/Health Information Technology for Economic and Clinical Health Act ("HITECH"));
5. costs to provide services to restore healthcare records of **Notified Individuals** residing in the United States whose **Personally Identifiable Non-Public Information** was compromised as a result of theft, loss or Unauthorized Disclosure; or
6. other costs approved in advance by the underwriters.

U.S. Department of Justice Cyber Breach Guidelines

DOJ Four-Step process to respond to cyber attack:

1. Make an initial assessment of the scope and nature of the incident.
2. Implement measures to wall off the attack through rerouting network traffic, filtering, and enhance segmentation of compromised systems.
3. Record and collect evidence of the attack, and take steps to preserve such evidence prior to undertaking remediation efforts.
4. Always notify law enforcement of the attack.

10 Things to Do if Your Business Gets Hacked

By JEREMY QUITTNER
September 30, 2016
FORTUNE MAGAZINE

1. Inform customers immediately
2. Send a written communication
3. Know the state laws
4. File a notice of breach
5. Comply with your industry's regulating bodies
6. Implement an incident response plan
7. Call in a forensics team
8. Notify local and federal authorities
9. Consider Cyber insurance
10. Come up with a contingency plan

2. Cyber Extortion

- Usually triggered by a threat.
- ISO ISPC Form removed the exception for “extortion expenses” or “ransom payments” which are part of a series of related threats that began prior to the policy period. Cover is to apply to loss resulting directly from an extortion threat discovered during the policy period.
- Cyber Extortion Losses
 - ◆ Product
 - ◆ Web Site
 - ◆ Ransom
- Extortion by 3rd parties to :
 - ◆ Introduce viruses or malicious code
 - ◆ Alter or destroy data
 - ◆ Steal money or securities
 - ◆ Divulge or otherwise utilize confidential information contained in electronic media without authorization.
 - ◆ Deny a company’s service to third parties (typically a retailer that depends on customer traffic/sales on their website.)
- Pays investigation costs, retention of a negotiator, and “ransom.”
- Usually has a sublimit
- Ransom/Extortion Losses – More than the ransom amount paid
 - ◆ Damage and destruction (or loss) of data
 - ◆ Downtime
 - ◆ Lost productivity
 - ◆ Post-attack disruption to the normal course of business
 - ◆ Forensic investigation
 - ◆ Restoration and deletion of hostage data and systems
 - ◆ Reputational harm
 - ◆ Employee training in direct response to the attacks

Sample Policy

Network Extortion Expense means all reasonable and necessary expenses incurred by the **Insured Entity**:

- A.** in order to protect **Insured Entity's Money** or **Securities** or **Intangible Property** from loss, including payment of monies demanded by an extortionist;
- B.** in order to avoid loss of or damage to **Insured Entity's Network** in response to a **Network Extortion** including payment of monies demanded by an extortionist,

Provided, however that **Network Extortion Expense** shall not include any **Loss** based upon, directly or indirectly arising out of, or in any way involving any demands by an extortionist other than demands for money in exchange for:

- 1.** the restoration or return of **Insured Entity's Money, Securities, Goods, Services, or Intangible Property**; or
- 2.** the restoration of **Insured Entity's Network**; or
- 3.** the restoration of any defaced portions of the **Insured Entity's** web site; or
- 4.** not carrying out illegal threats made directly or indirectly, to impair or destroy **Insured Entity's Network** by an **Exploit** perpetrated by means of an **Electronic Transfer** or ;
- 5.** not publicizing that **Insured Entity's Network** will be or has been impaired or destroyed by an **Exploit** perpetrated by means of an **Electronic Transfer**; or
- 6.** not disclosing the **Insured Entity's** confidential information to unauthorized recipients.

Network Impairment means disruption or damage to the **Insured's Network** causing that network to be impaired to such an extent that the **Insured** is substantially unable to conduct one or more activities defined as **Network Activity**.

b. "Extortion expenses" means:

(1) Fees and costs of:

(a) A security firm; or

(b) A person or organization;

hired with our consent to determine the validity and severity of an "extortion threat" made against you;

(2) Interest costs paid by you for any loan from a financial institution taken by you to pay a ransom demand;

(3) Reward payments paid by you to an "informant" which lead to the arrest and conviction of parties responsible for "loss";

(4) Any other reasonable expenses incurred by you with our written consent, including:

(a) Fees and costs of independent negotiators; and

(b) Fees and costs of a company hired by you, upon the recommendation of the security firm, to determine how to protect your "electronic data" from further threats; and

(5) Ransom payments made in the form of cash, or virtual currency such as, but not limited to, Bitcoin.

c. "Informant" means a person, other than an "employee", providing information not otherwise obtainable, solely in return for a reward offered by you.

3. Replacement Or Restoration Of Electronic Data

We will pay for "loss" of your "electronic data" or "computer programs" stored within a "computer system" resulting directly from a "cyber incident" "discovered" during the policy period.

With respect to this Insuring Agreement:

a. "Loss" means the cost to replace or restore your "electronic data" or "computer programs" as well as the cost of data entry, reprogramming and computer consultation services.

"Loss" does not include the cost to duplicate research that led to the development of your "electronic data" or "computer programs". To the extent that any of your "electronic data" cannot be replaced or restored, we will pay the cost to replace the media on which such "electronic data" was stored with blank media of substantially identical type.

b. "Computer program" means a set of related electronic instructions, which direct the operation and function of a computer or devices connected to it, which enables the computer or devices to receive, process, store or send your "electronic data".

4. Business Income And Extra Expense

We will pay for "loss" due to an "interruption" resulting directly from a "cyber incident" or an "extortion threat" "discovered" during the policy period.

With respect to this Insuring Agreement:

a. "Loss" means the actual loss of "business income" you sustain and/or "extra expense" you incur.

b. "Business income" means the:

(1) Net income (net profit or loss before income taxes) that would have been earned or incurred; and

(2) Continuing normal operating expenses incurred, including payroll.

c. "Extra expense" means necessary expenses you incur:

(1) During an "interruption" that you would not have incurred if there had been no "interruption"; or

(2) To avoid or minimize the suspension of your "e-commerce activities".

"Extra expense" does not include:

(1) Any costs or expenses associated with upgrading, maintaining, repairing, remediating or improving a "computer system" as a result of a "cyber incident" or "extortion threat"; or

(2) "Extortion expenses" covered under Insuring Agreement 2. Extortion Threats.

5. Public Relations Expense

We will pay for "loss" due to "negative publicity" resulting directly from a "cyber incident" or a "security breach" "discovered" during the policy period.

With respect to this Insuring Agreement:

a. "Loss" means "public relations expenses".

b. "Public relations expenses" means:

(1) Fees and costs of a public relations firm; and

(2) Any other reasonable expenses incurred by you with our written consent;

to protect or restore your reputation solely in response to "negative publicity".

- **Social Engineering** – Some carriers may include endorsements for Social Engineering claims, some will not.

Sample Endorsement Language

*The insurer will pay the **Insured Entity** for **Social Engineering Fraud Loss** resulting directly from a **Social Engineering Fraud Event** in excess of the applicable retention and within the applicable Limits of Insurance*

*It is a condition precedent to coverage under the **Social Engineering Fraud** coverage that the Insured attempted to authenticate the **Fraudulent Instruction** prior to transferring any **Money** or **Securities**.*

Sample Social Engineering Endorsement



Endorsement No.	Effective Date of Endorsement	Policy Number	~ePremHead
~eNo	12:01 a.m. on ~eEff If the above date is blank, then this endorsement is effective on the effective date of the policy.	~ePol	~ePrem

SOCIAL ENGINEERING FRAUD COVERAGE ENDORSEMENT

SCHEDULE OF SOCIAL ENGINEERING FRAUD LOSS COVERAGE	
Social Engineering Fraud Loss Limit of Insurance	~SocialLimit
Social Engineering Fraud Loss Retention	~SocialRetention

Information in the above schedule also may appear on the Declarations.

It is agreed that:

- I. The Declarations are amended by the addition of the above new Limit of Insurance and Retention in the Items entitled **First Party Coverages Limits of Insurance** and **First Party Coverages Retention**, respectively.
- II. The section of the Policy entitled **FIRST PARTY COVERAGES** is amended as follows:

- A. The following new coverage is added:

Social Engineering Fraud Coverage

The Insurer will pay the **Insured Entity** for **Social Engineering Fraud Loss** resulting directly from a **Social Engineering Fraud Event**, in excess of the applicable retention and within the applicable Limits of Insurance.

It is a condition precedent to coverage under the **Social Engineering Fraud Coverage** that the **Insured** attempted to **Authenticate** the **Fraudulent Instruction** prior to transferring any **Money** or **Securities**.

- B. Solely with respect to the coverage provided by this endorsement, the paragraph addressing conditions precedent to coverage under the **First Party Coverages** is amended as follows:

1. Wherever the words "**Enterprise Security Event** or **Extortion Threat**" appear they are deleted and replaced by "**Enterprise Security Event, Extortion Threat** or **Social Engineering Fraud Event**."
2. Wherever the words "**Related Enterprise Security Event** or **Related Extortion Threat**" appear they are deleted and replaced by "**Related Enterprise Security Event, Related Extortion Threat** or **Related Social Engineering Fraud Event**."

- III. Solely with respect to the coverage provided by this endorsement, the section of the Policy entitled **LIMITS OF INSURANCE, RETENTION AND REIMBURSEMENT** is amended as follows:

- A. The subsection entitled **Multiple Insureds, Claims, Claimants** is deleted and replaced by the following:

3. Restoration Costs

- Usually triggered by unauthorized access, introduction of malicious code, accidental or unauthorized release of private information, and denial of service attacks.
- Pays for Restoration of Data within computer system. If the data cannot be restored or recreated, policy will pay the cost to reach that determination.

ISO INFORMATION SECURITY PROTECTION CYBER POLICY

Replacement or Restoration of Electronic Data:

The cost to replace or restore "electronic data" or "computer programs" as well as the cost of data entry, reprogramming and computer consultation services.

"Loss" does not include the cost to duplicate research that led to the development of your "electronic data" or "computer programs". To the extent that any "electronic data" cannot be replaced or restored, we will pay the cost to replace the media on which the "electronic data" was stored with blank media of substantially identical type.

Sample Policy

B. Loss of or Damage to Insured Entity's Network

for the **Insured Entity's** reasonable and necessary expenses resulting from an **Exploit** that occurs during the **Policy Period**, that are required to restore the **Insured Entity's Network** or information residing on the **Insured Entity's Network** to substantially the form in which it existed immediately prior to such **Exploit**;

Sample Policy

D. Emergency Response Fund

for the **Insured Entity's** reasonable and actual expenses resulting from an **Exploit**, an **Electronic Theft** or a **Network Extortion** that occurs during the **Policy Period** in engaging a suitably qualified third party security expert to:

1. assist the **Insured** in investigating, stopping, or minimizing damage due to such **Exploit**, **Electronic Theft** or **Network Extortion** while such **Exploit**, **Electronic Theft** or **Network Extortion** is ongoing; or
2. collecting and analyzing and preserving forensic evidence of such **Exploit**, **Electronic Theft** or **Network Extortion** for use in identifying the perpetrator and in supporting legal action against the perpetrator;

First Party Data Protection

To indemnify the **Named Insured** for:

Data Protection Loss, in excess of the **Retention**, incurred by the **Insured Organization** as a direct result of:

1. alteration, corruption, destruction, deletion or damage to a **Data Asset**, or
2. inability to access a **Data Asset**,

that first takes place during the **Policy Period** and is directly caused by a failure of **Computer Security** to prevent a **Security Breach**; provided that such **Security Breach** must take place on or after the **Retroactive Date** and before the end of the **Policy Period**.

4. Business Income-Extra Expenses

- Usually triggered by unauthorized access, introduction of malicious code, accidental or unauthorized release of private information, and denial of service attacks.
- Damage to information stored in hard drives or damage to storage or media
- May not be considered to be damage to “tangible property”
- Would not trigger business income loss under most property policies
- Expenses for cost of investigating the reasons for interruptions of business
- Impairment or interruption of business to third parties interrupted by YOUR loss of services
- Expenses incurred in defense of these claims
- Business Income Pays for:
 - ◆ Normal gross margins for the time period in which the network was disabled.
 - ◆ Time Period Deductible (i.e. 10 hours)
 - ◆ Direct – Loss of Sales.
 - ◆ Indirect – Lose ability to Manage Inventory.

BUSINESS INCOME SAMPLE POLICY LANGUAGE

Sample Policy

Business Income and Extra Expense

1. for reduction of business income the **Insured Entity** sustains during a **Period of Restoration** due to the interruption of **Commerce Operations** by a **Network Impairment** that has been caused by an **Exploit** during the **Policy Period**; and,
2. for Extra Expense that the Insured Entity sustains to minimize any such Network Impairment in order to resume Commerce Operations;

Sample Policy

First Party Network Business Interruption

To indemnify the **Named Insured** for:

Business Interruption Loss, in excess of the applicable **Retention**, incurred by the **Insured Organization** during the **Period of Restoration** or the **Extended Interruption Period** (if applicable) as a direct result of the actual and necessary interruption or suspension of **Computer Systems** that first takes place during the **Policy Period** and is directly caused by a failure of **Computer Security** to prevent a **Security Breach**; provided that such **Security Breach** must first take place on or after the **Retroactive Date** and before the end of the **Policy Period**.

Sample Policy

Business Interruption Loss means the total of:

1. **Income Loss** and **Extra Expense** during the **Period of Restoration**; and
2. **Extended Income Loss** if the **Income Loss** during the **Period of Restoration** is in excess of the applicable **Retention**.

Provided that **Business Interruption Loss** shall not mean and Insuring Agreement I.H. shall not cover any of the following: **Loss** arising out of any liability to any third party for whatever reason; legal costs or legal expenses of any type; **Loss** incurred as a result of unfavorable business conditions, loss of market or any other consequential loss; or costs or expenses the **Insured Organization** incurs to identify and remove software program errors or vulnerabilities.

ISO INFORMATION SECURITY PROTECTION CYBER POLICY

"Business income" means the:

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

"Extra expense" means necessary expenses you incur:

- a. During an "interruption" that you would not have incurred if there had been no "interruption"; or
- b. To avoid or minimize the suspension of your "e-commerce activities".

"Extra expense" does not include any costs or expenses associated with upgrading, maintaining, improving, repairing or remediating any "computer system".

3rd Party Losses

- **3rd-Party Losses** - Liability for financial losses or costs sustained by others resulting from Internet or other electronic activities
- **Usual Coverages**
 1. Network Liability
 2. Electronic Media Liability
 3. Regulatory Defense Costs
 4. Privacy Liability

1. Network Liability

- Often confused with privacy coverage.
- *Triggered by:*
 - ◆ unauthorized access/use
 - ◆ computer virus
 - ◆ denial of service attack
 - ◆ denial of access
 - ◆ mistake in administration of network
- Improper Transmission of Data Losses
 - ◆ Customers / Vendors – Potential loss of future revenue
 - ◆ Contingent Business Income (Not covered by property forms)
- *Pays for:*
 - ◆ Third party damages for inability to access website (e.g. customer of a supplier)
 - ◆ Transmission of a virus to a third party from insured's computer system
 - ◆ Use of insured's network to launch a denial of service attack on a third party

ISO INFORMATION SECURITY PROTECTION CYBER POLICY

Security Breach Liability

- a. We will pay for both "loss" that the "insured" becomes legally obligated to pay and "defense expenses" as a result of a "claim" first made against the "insured" during the "policy period" or during the applicable Extended Reporting Period, for a "wrongful act" or a series of "interrelated wrongful acts" taking place on or after the Retroactive Date, if any, shown in the Declarations and before the end of the "policy period".
- b. We will pay for both "loss" and "defense expenses" as a result of a "claim" in the form of a "regulatory proceeding" first made against the "insured" during the "policy period" or during the applicable Extended Reporting Period, in response to a "wrongful act" or a series of "interrelated wrongful acts" covered under Paragraph 2.a.

Sample Policy

Network Security Liability:

as **Damages** resulting from any **Network Security Claim** both first made against the **Insured** and reported to the Insurer in writing during the **Policy Period**, or any Extended Reporting Period, if applicable, alleging any **Wrongful Act** by the **Insured**, or by someone for whose **Wrongful Act** the **Insured** is legally responsible;

provided that, with respect to paragraphs 1. through 4. above:

1. prior to the inception date of this policy or the first such policy issued and continuously renewed by the Insurer, whichever is earlier;
 - A. no **Executive** had knowledge of or could have reasonably foreseen any circumstances which might have resulted in a **Claim**; and
 - B. the **Wrongful Act** or any **Interrelated Wrongful Act** has not been the subject of any notice given under any prior policy; and,
2. the **Wrongful Act** occurred on or after the applicable **Prior Acts Date** for each Insuring Agreement as set forth in the Declarations, in Item 3. Coverage Schedule, and prior to the end of the **Policy Period**.

Subject to the limits of insurance and in excess of any deductible, the Insurer will also pay all **Claim Expenses** in connection with any **Claim**.

Sample Policy

Network Security Liability

The **Insurer** will pay **Damages** and **Claims Expenses** by reason of a **Claim** first made against the **Insured** during the **Policy Period** and reported to the **Insurer** pursuant to Section VIII, Notice, for any **Wrongful Acts** taking place after the **Retroactive Date** and prior to the end of the **Policy Period**.

2. Electronic Media Liability

- Personal Injury for Insured's Network Communications.
- Libel, Cyber-Libel, Slander
- Product disparagement
- Violation of right of privacy
- Misappropriation and plagiarism
- Intellectual Property Losses
 - ◆ Copyright© Infringement
 - Original expression of graphics, words, music, video
 - Web site
 - ◆ Patent Infringement
 - Icons
 - Business Methods
 - ◆ Trade Mark™, Trade Name, Service Mark, Service Name Infringement, Domain Name
 - ◆ Anti-Cybersquatting Bill (Passed in 1999 by Congress)
 - ◆ Trade Dress Infringement
 - Style or design of web site
 - ◆ Trade Secret – Theft
 - Third Parties
 - Employees

Sample Policy

Content Injury means:

- A. publication or an utterance in violation of an individual's rights of publicity, including commercial appropriation of name, persona or likeness;
- B. any form of defamation or other tort related to an utterance or publication which disparages or harms the character, reputation or feelings of any person or organization, including libel, slander, product disparagement, trade libel, negligent or intentional infliction of emotional distress, outrage or outrageous conduct;
- C. infringement of copyright, title, slogan, logo, trademark, trade name, trade dress, service mark or service name; or
- D. unfair competition or unfair trade practices based solely upon the same facts as, and alleged in conjunction with, subparagraph C. above, including but not limited to dilution, confusion, deceptive or unfair trade practices, civil actions for consumer fraud, false, disruptive or misleading **advertising** or misrepresentation in **advertising**.

Content Injury Claim means a **Claim** arising out of **Content Injury**.

ISO INFORMATION SECURITY PROTECTION CYBER POLICY

"Wrongful act" means:

a. With respect to Insuring Agreement 1. Web Site Publishing Liability:

Any actual or alleged error, misstatement or misleading statement posted or published by an "insured" on its web site that results in:

- (1) Any type of infringement of another's copyright, title, slogan, trademark, trade name, trade dress, service mark or service
- (2) Any form of defamation against a person or organization; or
- (3) A violation of a person's right of privacy.

3. Regulatory Costs

- Covers the defense of regulatory actions by governmental agencies against the insured for alleged violations of privacy regulations/laws.
 - ◆ HIPAA
 - ◆ Graham Leach Bliley
 - ◆ State Regulatory – State Security Breach Notification Law
- Fines
- Affordable Healthcare Act makes “**business associates**” that provide services to “**covered entities**” directly subject to HIPAA’s privacy and security requirements.
 - ◆ “Covered Entities” = Healthcare Plan, Healthcare Clearinghouse, Healthcare Provider, etc.
- What changes for a “**business associate**”?
 - ◆ They are subject to civil and criminal penalties (not just contractual claims by the covered entity).
 - ◆ Must comply with administrative, physical, and technical safeguards and documentation requirements under the HIPAA security rule.
 - ◆ Two-way policing: The business associate and the covered entity must report known violations.
 - ◆ Notification: Must notify the FTC of any breach, and violation is considered an unfair and deceptive act.
 - ◆ Covered entities: Must notify individuals within 60 days.
 - ◆ If over 500 identities, they must notify “prominent media outlets” in the area as well as the Department of Health and Human Services.

ISO INFORMATION SECURITY PROTECTION CYBER POLICY

"Privacy regulations" means any of the following statutes and regulations, and their amendments, associated with the control and use of personally identifiable financial, health or other sensitive information including, but not limited to:

- a. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191);
- b. The Health Information Technology for Economic and Clinical Health Act (HITECH) (American Recovery and Reinvestment Act of 2009);
- c. The Gramm-Leach-Bliley Act of 1999;
- d. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)), but solely for alleged unfair or deceptive acts or practices in or affecting commerce;
- e. The Identity Theft Red Flags Rules under the Fair and Accurate Credit Transactions Act of 2003; or
- f. Any other similar state, federal or foreign identity theft or privacy protection statute or regulation.

"Regulatory proceeding" means an investigation, demand or proceeding brought by, or on behalf of, the Federal Trade Commission, Federal Communications Commission or other administrative or regulatory agency, or any federal, state, local or foreign governmental entity in such entity's regulatory or official capacity.

Sample Policy

2. Supplementary Payments for Regulatory Expenses

Subject to the Regulatory Expense Limit of Insurance and the Aggregate Limit of Insurance as set forth in the Declarations, we will reimburse you for all reasonable and necessary fees, costs and expenses incurred by you during the policy period, and consented to by us (such consent not to be unreasonably withheld), in order to effect compliance with:

- a. a "security breach notice law";
- b. a statute or regulation referenced under the definition of "privacy injury and identity theft" where the Named Insured has been notified of an actual or alleged breach of such law by a regulatory agency.

This limit is part of, and not in addition to, the Aggregate Limit of Insurance.

4. Privacy Liability

- Usually triggered by misappropriation, theft or unauthorized access. (Failure to secure data or errors and omissions in handling data.)
- Data covered: Personal Information, Non-public data (usually corporate information).
- *Want all data covered, not just electronic data. (Improperly disposed of or secured paper records.)
- Notification Costs
- Credit Monitoring

NetDiligence® Mini Data Breach Cost Calculator

The Data Breach Cost Calculator is one of the most popular tools in the eRiskHub. Here we allow you to view a sample version that contains simplified results. The calculator allows you to run a scenario to see how much a data breach could potentially cost your company. Data breach costs can vary depending on the type of information lost, such as PII, PCI or PHI. The calculator breaks down the cost by incident investigation, customer notification costs and crisis management, regulator fines and penalties, PCI, and class action lawsuits.

<https://eriskhub.com/mini-dbcc>

CYBER SCOUT: IDT 911 Data RiskCalculator:

Is your company vulnerable to a data breach? Assess your risk level now with the Data Risk Calculator. Your business faces a growing number of threats to its data security, especially if you have any private information about your customers or employees. Internally, you must stay alert to employee error, misuse of mobile devices and other potential minefields exposing your customers' personal information. Externally, you face the threat of hacker attacks, vendor negligence and other exposures of private data you've been entrusted with. Use the Data Risk Calculator to learn more about the potential gaps in your company's data security—and how to eliminate them.

Answer a few short questions to get your Data Risk Score. This number will rate your company as being at low, medium or high risk of a data breach. After each question, you'll receive a best practice tip on how to better protect your company's sensitive data.

<http://cyberscout.com/datariskcalc/start.aspx>

- **IBM Security Breach Calculator:**

<https://databreachcalculator.mybluemix.net/>

Websites for Claims/Incident Examples:

- www.idtheftcenter.org
- www.netdiligence.com

ISO INFORMATION SECURITY PROTECTION CYBER POLICY

"Security breach expenses" means:

- a. Costs to establish whether a "security breach" has occurred or is occurring;
- b. Costs to investigate the cause, scope and extent of a "security breach" and to identify any affected parties;
- c. Costs to determine any action necessary to correct or remediate the conditions that led to or resulted from a "security breach";
- d. Costs to notify all parties affected by a "security breach";
- e. Overtime salaries paid to "employees" assigned to handle inquiries from the parties affected by a "security breach";
- f. Fees and costs of a company hired by you for the purpose of operating a call center to handle inquiries from the parties affected by a "security breach";
- g. Post-event credit monitoring costs for the parties affected by a "security breach" for up to one year from the date of notification to those affected parties of such "security breach"; and
- h. Any other reasonable expenses incurred by you with our written consent.

"Security breach expenses" do not include any costs or expenses associated with upgrading, maintaining, improving, repairing or remediating any "computer system" as a result of a "security breach".

Sample Policy

Data Breach Expenses means those reasonable and necessary expenses incurred by the **Insured** or which the **Insured** becomes legally obligated to pay:

1. to retain third party computer forensics services to determine the scope of a failure of **Network Security**;
 2. to comply with **Privacy Regulations**, including but not limited to the consumer notification provisions of **Privacy Regulations** of the applicable jurisdiction that most favors coverage for such expenses;
 3. with the **Insurer's** prior written consent, to voluntarily notify individuals whose **Personal Information** has been wrongfully disclosed;
-
4. in retaining the services of a public relations firm, crisis management firm or law firm for advertising or related communications solely for the purpose of protecting or restoring the **Insured's** reputation as a result of a **Wrongful Act**;
 5. to retain the services of a law firm solely to determine the **Insured's** indemnification rights under a written agreement with an independent contractor with respect to a **Wrongful Act** expressly covered under Insuring Agreement A of this **Policy** and actually or allegedly committed by such contractor; and
 6. for credit monitoring services, but only if such disclosure of **Personal Information** could result in the opening of an unauthorized line of credit or other financial account.

Privacy Breach Response Services means the following:

1. Costs incurred:

- (a) for a computer security expert to determine the existence and cause of any electronic data breach resulting in an actual or reasonably suspected theft, loss or **Unauthorized Disclosure of Personally Identifiable Non-Public Information** which may require the **Insured Organization** to comply with a **Breach Notice Law** and to determine the extent to which such information was accessed by an unauthorized person or persons;
- (b) for a PCI Forensic Investigator that is approved by the PCI Security Standards Council and is retained by the **Insured Organization** in order to comply with the terms of a **Merchant Services Agreement** to investigate the existence and extent of an actual or suspected compromise of credit card data; and in the Underwriters' discretion, where a computer security expert has not been retained under Insuring Agreement I.B.1.(a), for a computer security expert to provide advice and oversight in connection with the investigation conducted by the PCI Forensic Investigator;
- (c) for fees charged by an attorney to determine the applicability of and actions necessary by the **Insured Organization** to comply with **Breach Notice Law** due to an actual or reasonably suspected theft, loss or **Unauthorized Disclosure of Personally Identifiable Non-Public Information** and to advise the **Insured Organization** in responding to credit card system operating regulation requirements for any actual or suspected compromise of credit card data that is required to be reported to the **Insured Organization's** merchant bank under the terms of a **Merchant Services Agreement**, but this clause does not cover fees incurred in any legal proceeding, arbitration or mediation, or any advice in responding to credit card system operating regulations after any assessment of **PCI Fines and Costs**; and
- (d) up to USD 25,000 for a computer security expert to demonstrate the **Insured's** ability to prevent a future electronic data breach as required by a **Merchant Services Agreement**;

provided amounts covered by (a), (b), (c) and (d) in this paragraph combined shall not exceed the amount set forth in Item 3.B.2. of the Declarations in the aggregate for the **Policy Period**.

2. To provide notification to:

- (a) individuals who are required to be notified by the **Insured Organization** under the applicable **Breach Notice Law**; and
- (b) in the Underwriters' discretion, to individuals affected by an incident in which their **Personally Identifiable Non-Public Information** has been subject to theft, loss, or **Unauthorized Disclosure** in a manner which compromises the security or privacy of such individual by posing a significant risk of financial, reputational or other harm to the individual.
 - 1) The offering of **Call Center Services to Notified Individuals**.
 - 2) The offering of the **Credit Monitoring Product to Notified Individuals** residing in the United States whose **Personally Identifiable Non-Public Information** was compromised or reasonably believed to be compromised as a result of theft, loss or **Unauthorized Disclosure**. Such offer will be provided in the notification communication provided pursuant to paragraph control information provided by or on behalf of the Underwriters at no charge.

TYPICAL CYBER POLICY TERMS/CONDITIONS

DEFINITIONS

1. E-Commerce Incident

ISO INFORMATION SECURITY PROTECTION CYBER POLICY

"E-commerce incident" means a:

- a. "Virus";
- b. Malicious code; or
- c. Denial of service attack;

introduced into or enacted upon the "computer system" (including "electronic data") or a network to which it is connected, that is designed to damage, destroy, delete, corrupt or prevent the use of or access to any part of the "computer system" or otherwise disrupt its normal operation.

Recurrence of the same "virus" after the "computer system" has been restored shall constitute a separate "e-commerce incident".

2. Electronic Data

ISO INFORMATION SECURITY PROTECTION CYBER POLICY

"Electronic data" means digital information, facts, images or sounds stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software) on electronic storage devices including, but not limited to, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment. "Electronic data" is not tangible property.

"Electronic data" does not include your "electronic data" that is licensed, leased, rented or loaned to others.

3. Extortion Threat

ISO INFORMATION SECURITY PROTECTION CYBER POLICY

"Extortion threat" means a threat or series of related threats:

- a. To perpetrate an "e-commerce incident";
- b. To disseminate, divulge or utilize:
 - (1) Your proprietary information; or
 - (2) Weaknesses in the source code;within the "computer system" by gaining unauthorized access to the "computer system";
- c. To destroy, corrupt or prevent normal access to the "computer system" by gaining unauthorized access to the "computer system";
- d. To inflict "ransomware" on the "computer system" or a network to which it is connected; or
- e. To publish your client's "personal information".

4. Claim

Sample Policy

Claim means:

1. a written demand received by any **Insured** for money or services, including the service of a suit or institution of regulatory or arbitration proceedings;
2. with respect to coverage provided under Insuring Agreement I.C. only, institution of a **Regulatory Proceeding** against any **Insured**; and
3. a written request or agreement to toll or waive a statute of limitations relating to a potential **Claim** described in paragraph 1. above.

Multiple **Claims** arising from the same or a series of related or repeated acts, errors, or omissions, or from any continuing acts, errors, omissions, or from multiple **Security Breaches** arising from a failure of **Computer Security**, shall be considered a single **Claim** for the purposes of this Policy, irrespective of the number of claimants or **Insureds** involved in the **Claim**. All such **Claims** shall be deemed to have been made at the time of the first such **Claim**.

ISO INFORMATION SECURITY PROTECTION CYBER POLICY

"Claim" means:

- a. A written demand for monetary or nonmonetary damages, including injunctive relief;
- b. A civil proceeding commenced by the service of a complaint or similar proceeding; or
- c. Under Paragraph b. of Insuring Agreement 2. Security Breach Liability, a "regulatory proceeding" commenced by the filing of a notice of charges, formal investigative order, service of summons or similar document;
against any "insured" for a "wrongful act", including any appeal therefrom.

5. Confidential Commercial Information

Sample Policy

Confidential Commercial Information means information in a durable and persistent form and that has been provided to the **Insured Entity** by another, or created by the **Insured Entity** for another where such information is subject to the terms of a confidentiality agreement obligating the **Insured Entity** to protect such information on behalf of another.

6. Computer System

7. Virus

8. Website

9. Personally Identifiable Information (PII)

ISO INFORMATION SECURITY PROTECTION CYBER POLICY

"Personal information" means any information not available to the general public for any reason through which an individual may be identified including, but not limited to, an individual's:

- a. Social security number, driver's license number or state identification number;
- b. Protected health information;
- c. Financial account numbers;
- d. Security codes, passwords, PINs associated with credit, debit or charge card numbers which would permit access to financial accounts; or
- e. Any other nonpublic information as defined in "privacy regulations".

Sample Policy

Nonpublic Personal Information means information not available to the general public from which an individual may be identified, including without limitation, an individual's name, address, telephone number, social security number, account relationships, account numbers, account balances, and account histories.

Sample Policy

Personally Identifiable Non-Public Information means:

1. information concerning the individual that constitutes "nonpublic personal information" as defined in the Gramm-Leach Bliley Act of 1999, as amended, and regulations issued pursuant to the Act;
2. medical or health care information concerning the individual, including "protected health information" as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations issued pursuant to the Act;
3. information concerning the individual that is defined as private personal information under statutes enacted to protect such information in foreign countries, for **Claims** subject to the law of such jurisdiction;
4. information concerning the individual that is defined as private personal information under a **Breach Notice Law**; or
5. the individual's drivers license or state identification number; social security number; unpublished telephone number; and credit, debit or other financial account numbers in combination with associated security codes, access codes, passwords or pins;

if such information allows an individual to be uniquely and reliably identified or contacted or allows access to the individual's financial account or medical record information but does not include publicly available information that is lawfully made available to the general public from government records.

10. Security Breach

ISO INFORMATION SECURITY PROTECTION CYBER POLICY

"Security breach" means the acquisition of "personal information" held within the "computer system" or in nonelectronic format while in the care, custody or control of the "insured" or authorized "third party" by a person:

- a. Who is not authorized to have access to such information; or
- b. Who is authorized to have access to such information but whose access results in the unauthorized disclosure of such information.

Sample Policy

Security Breach means:

1. **Unauthorized Access or Use of Computer Systems**, including **Unauthorized Access or Use** resulting from the theft of a password from a **Computer System** or from any **Insured**;
2. a **Denial of Service Attack** against **Computer Systems** or **Third Party Computer Systems**; or
3. infection of **Computer Systems** by **Malicious Code** or transmission of **Malicious Code** from **Computer Systems**,

whether any of the foregoing is a specifically targeted attack or a generally distributed attack.

A series of continuing **Security Breaches**, related or repeated **Security Breaches**, or multiple **Security Breaches** resulting from a continuing failure of **Computer Security** shall be considered a single **Security Breach** and be deemed to have occurred at the time of the first such **Security Breach**.

11. Denial of Service Attack

Sample Policy

Denial of Service Attack means an attack executed over one or more **Networks** or the internet, which attack is specifically designed and intended to disrupt the operation of one or more **Networks** and render the **Networks** inaccessible to authorized users.

Sample Policy

Denial of Service Attack means an attack intended by the perpetrator to overwhelm the capacity of a **Computer System** by sending an excessive volume of electronic data to such **Computer System** in order to prevent authorized access to such **Computer System**.

12. Network Activity

Sample Policy

Network Activity means:

A. use of the **Insured Entity's Network** to:

1. send and receive e-mail;
2. send and receive digital documents and/or data;
3. host and/or publish the **Insured Entity's** websites; or
4. browse the World Wide Web;

B. the **Insured Entity's**:

1. publishing, editing, maintaining, or interacting with its website,
2. use of its internal computer network or provision of access to its **Network**,
3. retrieval, storage, saving, processing and/or distributing its data and software; or,
4. reliance on the accuracy, validity, source authenticity or integrity of its data and software.

However, **Network Activity** does not include the **Insured's** use of telephone systems to communicate person-to-person by voice or to communicate from facsimile machine to facsimile machine, unless such systems are directly and permanently integrated into the same **Network** being used for **A.** and **B.** above.

13. Negative Publicity

ISO INFORMATION PROTECTION SECURITY CYBER POLICY

"Negative publicity" means information which has been made public that has caused, or is reasonably likely to cause, a decline or deterioration in the reputation of the "named insured" or of one or more of its products or services.

TYPICAL CYBER POLICY EXCLUSIONS

Common Exclusions

1. War
2. Interruptions

Interruptions

based upon, directly or indirectly arising out of, or in any way involving any:

- 1. Telecommunications Services Provider** interruptions;
 2. interruptions in leased, managed or hosted services provided by another including but not limited to: Application Service Providers, Managed Security Providers, hosting service providers or any similar service;
 3. partial or total electrical failure including electrical power interruption, surge, brownout or blackout; or interruptions or outages to any other utilities or elements of infrastructure, including gas, water, telephone (on-line, wireless or other), cable or satellite services, unless such utilities or elements of infrastructure were under the sole operational control of the **Insured Entity**.
- including (but not limited to) planned outages or reductions in service involving items identified in subsections **1.** through **3.** above;

3. Pollution
4. Securities / Management Liability
5. Claims by Governmental Agency
6. ERISA or Similar Acts
7. Bodily Injury / Property Damage
8. Contractual Liability
9. Advertising
10. Dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of the law by an insured.
11. Unprotected portable computers and media

For, arising out of or resulting from any theft of, loss of, or parting with, any portable computing device or media containing data in an electronic format, unless the data stored on such device or media are stored in an encrypted format.

12. Costs associated with upgrading or improving the insured's computer system
13. RICO

14. Malfunction or failure of any satellite

15. Inadequate Software

Inadequate Software

based upon, directly or indirectly arising out of, or in any way involving the inability to use or lack of performance of software programs:

1. due to expiration, cancellation or withdrawal;
2. that have not yet been released from their development stage;
3. that have not passed all test runs or proven successful in applicable daily operations; or
4. that result from the **Insured's** modification of software programs in violation of any software license agreement (e.g. particularly license provisions regarding modification that invalidate warranty);

16. Oral or written material if known to be false by the insured

17. Failure to follow minimum required practices

Failure to Follow Minimum Required Practices

based upon, directly or indirectly arising out of, or in any way involving:

1. Any failure of an **Insured** to continuously implement the procedures and risk controls identified in the **Insured's** application for this Insurance and all related information submitted to the Insurer in conjunction with such application whether orally or in writing;
 2. Failure to follow (in whole or part) any Minimum Required Practices that are listed in Minimum Required Practices Endorsement; or
 3. The **Insured's** failure to meet any service levels, performance standards or metrics;
- Item 3 above shall apply only to **Insureds** whose services are required to satisfy service levels, performance standards or metrics.

This exclusion shall not apply to:

1. an **Insured Person's** negligent circumvention of controls; or
2. an **Insured Person's** intentional circumvention of controls where such circumvention was not authorized by the **Insured**;

First Party Exclusions

1. Failure to communicate
2. Defects in Data, Software, Network
3. Intellectual and Proprietary Rights
4. Value of Stocks
5. Extortion
6. Goodwill

7. Wireless Networks

Wireless Networks

based upon, directly or indirectly arising out of, or in any way involving **Exploits** involving wireless networks or components thereof unless:

1. all transmitters and receivers in such networks are under the direct physical control of the **Insured Entity**;
2. all information exchanged over such wireless networks is encrypted; and
3. all cryptographic keys for encryption are distributed in a manner that precludes compromise of such keys;
4. all such wireless networks operate externally to the **Insured Entity's Network** perimeter defenses, including firewalls.

This exclusion shall not apply to:

1. an **Insured Person's** negligent circumvention of controls; or
2. an **Insured Person's** intentional circumvention of controls where such circumvention was not authorized by the **Insured**;

8. Leased Services

Leased Services

based upon, directly or indirectly arising out of, or in any way involving **Exploits** involving leased, managed or hosted services provided by third party **Telecommunication Service Providers** and other public network/infrastructure providers;

Third-Party Exclusions

1. Employment Practices

For, arising out of or resulting from any employer-employee relations, policies, practices, acts or omissions, or any actual or alleged refusal to employ any person, or misconduct with respect to employees, whether such **Claim** is brought by an employee, former employee, applicant for employment, or relative or domestic partner of such person; provided, however, that this exclusion shall not apply to an otherwise covered **Claim** under Insuring Agreement I.A.1., I.A.2., or I.A.3. by a current or former employee of the **Insured Organization**; or to the providing of **Privacy Breach Response Services** involving current or former employees of the **Insured Organization**;

2. Contractual Rights

3. Merchandising Activities

4. Production / Recall Costs

5. Media Activity

6. Certain Federal Law Violations - FTC, Anti-Trust Acts, SEC

7. Professional Services

COVERAGE TRIGGERS

1. Claims-Made Forms
2. Type of Demand

ISO INFORMATION PROTECTION SECURITY CYBER POLICY

"Claim" means:

- a. A written demand for monetary or nonmonetary damages, including injunctive relief;
 - b. A civil proceeding commenced by the service of a complaint or similar proceeding; or
 - c. Under Paragraph b. of Insuring Agreement 2. Security Breach Liability, a "regulatory proceeding" commenced by the filing of a notice of charges, formal investigative order, service of summons or similar document;
- against any "insured" for a "wrongful act", including any appeal therefrom.

Sample Policy

Claim means:

1. with respect to Insuring Agreements A and C:
 - a. a written demand against any **Insured** for monetary or non-monetary damages;
 - b. a civil proceeding against any **Insured** seeking monetary damages or non-monetary or injunctive relief, commenced by the service of a complaint or similar pleading;
 - c. an arbitration proceeding against any **Insured** seeking monetary damages or non-monetary or injunctive relief; or
 - d. a **Regulatory Proceeding**;
 2. with respect to Insuring Agreement B, a written report by the **Insured** to the **Insurer** of a failure by the **Insured** or by an independent contractor for which the **Insured** is legally responsible to properly handle, manage, store, destroy or otherwise control **Personal Information**;
- including, where applicable, any appeal therefrom.

Sample Policy

Claim means:

- A. a written demand for monetary damages or non-monetary relief (including demands for injunctive or declaratory relief); or
 - B. a civil adjudicatory proceeding or arbitration against an **Insured**, including any appeal therefrom alleging a **wrongful act**.
- However, a **Claim** does not include any criminal proceeding or investigation or any regulatory proceeding or investigation except if the regulatory proceeding is a **Privacy Regulation Proceeding**

LIMITS

1. Limits may apply:
 - a. To Each Loss
 - b. To Each Insuring Agreement
 - c. Per Policy
 - d. Per Record
 - e. To include loss and defense costs or in addition to defense costs
2. Aggregate Limits may apply:
 - a. Per Policy
 - b. Per Insuring Agreement
 - c. Per Policy Period

ISO INFORMATION PROTECTION SECURITY CYBER POLICY

SECTION II – LIMITS OF INSURANCE

1. Policy Aggregate Limit Of Insurance

The most we will pay for all "loss", and "defense expenses" if covered, under this Policy is the Policy Aggregate Limit Of Insurance shown in the Declarations. The Policy Aggregate Limit of Insurance shall be reduced by the amount of any payment made under the terms of this Policy. Upon exhaustion of the Policy Aggregate Limit of Insurance by such payments, we will have no further obligations or liability of any kind under this Policy.

2. Insuring Agreement Aggregate Limit Of Insurance

- a. Subject to the Policy Aggregate Limit of Insurance, the most we will pay for all "loss", and "defense expenses" if covered, under each Insuring Agreement, is the Insuring Agreement Aggregate Limit Of Insurance shown in the Declarations:

- (1) The Insuring Agreement Aggregate Limit of Insurance shall be reduced by the amount of any payment for "loss", and "defense expenses" if covered, under that Insuring Agreement; and
- (2) Upon exhaustion of the Insuring Agreement Aggregate Limit of Insurance by such payments, we will have no further obligations or liability of any kind under that Insuring Agreement.

- b. If coverage for "regulatory proceedings" is being provided under Paragraph **b.** of Insuring Agreement **2. Security Breach Liability**, the Limit of Insurance shall be part of, not in addition to, the Aggregate Limit of Insurance for the Insuring Agreement.

3. Sublimits

- a. Relatively Common
- b. Used for coverages such as Regulatory Expense & Penalties, Emergency Response Fund, Fines, Forensic Expense, Business Income, Dependent Business Income, Website Media Content, Crisis Management, Public Relations
- c. Are usually included in the Aggregate Limits

4. Deductibles / Retentions

- a. May apply separately to insuring agreements
- b. May apply to each loss, each claim or each occurrence
- c. May include defense costs or be in addition to defense costs
- d. May apply separately to sublimits

ISO INFORMATION PROTECTION SECURITY CYBER POLICY

SECTION III – DEDUCTIBLE

1. Subject to Section II – Limits Of Insurance:

- a. Under Insuring Agreements **1. Web Site Publishing Liability**, **2. Security Breach Liability** and **3. Programming Errors And Omissions Liability**:

We will pay only the amount of "loss" and "defense expenses" which are in excess of the applicable Deductible Amount shown in the Declarations resulting from the same "wrongful act" or "interrelated wrongful acts". Such Deductible Amount will be borne by you, self-insured, and at your own risk.

- b. Under Insuring Agreements **4. Replacement Or Restoration Of Electronic Data**, **5. Extortion Threats**, **7. Public Relations Expense** and **8. Security Breach Expense**:

We will pay only the amount of "loss" which is in excess of the applicable Deductible Amount shown in the Declarations.

- c. Under Insuring Agreement **6. Business Income And Extra Expense**:

We will pay only the amount of "loss" which exceeds the greater of:

- (1) The Deductible Amount shown in the Declarations; or
- (2) The amount of "loss" incurred during the Waiting Period shown in the Declarations.

- 2. In the event a "loss" is covered under more than one Insuring Agreement, only the highest Deductible Amount applicable to the "loss" shall be applied.

Sample Policy

RETENTION

- A. The liability of the **Insurer** shall apply only to that part of **Damages, Claims Expenses, and Data Breach Expenses** which are in excess of the applicable Retention amount shown in Item 5 of the Declarations. Such Retention shall be borne uninsured by the **Named Insured** and at the risk of all **Insureds**.
- B. A single Retention amount shall apply to **Damages, Claims Expenses, and Data Breach Expenses** arising from all **Claims** alleging **Interrelated Wrongful Acts**.
- C. If different parts of a single **Claim** are subject to different Retentions, the applicable Retention shall be applied separately to each part of the **Damages, Claim Expenses, and Data Breach Expenses**, but the sum of such Retentions shall not exceed the largest applicable Retention.

DEFENSE AND SETTLEMENT

1. Right & Duty to Defend

2. Consent

- a. Many policies will contain a consent clause requiring Insured's consent before settlement.
- b. Some will have "hammer clauses" built into policy

Sample Policy

LIABILITY COVERAGES - DUTY TO DEFEND AND SETTLEMENT

A. Defense

The Insurer shall have the right and duty to defend in the **Insured's** name and on the **Insured's** behalf a **Claim** even if any of the allegations of the **Claim** are groundless, false or fraudulent. The Insurer has the right to make such investigation and conduct negotiations and enter into such settlement of any **Claim** as the Insurer deems necessary.

B. Consent to Settlement

The Insurer shall not settle any **Claim** without the prior written consent of the **Named Insured**. If however, the **Named Insured** refuses to consent to such settlement or compromise recommended by the Insurer and agreed to by the claimant, the Insurer's duty to defend shall then cease and the **Named Insured** shall thereafter at the **Named Insured's** own expense negotiate or defend such **Claim** independently of the Insurer, and the Insurer's liability shall be limited to the amount of **Damages** for which the **Claim** could have been settled, if such recommendation was consented to, and for all **Claim Expenses** incurred up to the time of such refusal.

C. Exhaustion of Limits

The Insurer shall not be obligated to investigate, defend, pay or settle, or continue to investigate, defend, pay or settle a **Claim** after the applicable limit of insurance has been exhausted by payment of **Damages** or **Claim Expenses**, or any combination thereof. In such case, the Insurer shall have the right to withdraw from the further investigation, defense, payment or settlement of such **Claim** by tendering control of said investigation, defense or settlement of the **Claim** to the **Insured**.

ISO INFORMATION PROTECTION SECURITY CYBER POLICY

DEFENSE AND SETTLEMENT

The provisions contained within this section apply only to Insuring Agreements **1. Web Site Publishing Liability**, **2. Security Breach Liability** and **3. Programming Errors And Omissions Liability**:

1. We shall have the right and duty to select counsel and defend the "insured" against any "claim" covered under Insuring Agreements **1. Web Site Publishing Liability**, **2. Security Breach Liability** and **3. Programming Errors And Omissions Liability**, even if the allegations of such "claim" are groundless, false or fraudulent. However, we shall have the right but not the duty to defend the "insured" against a "claim" covered under Paragraph **b.** of Insuring Agreement **2. Security Breach Liability**, and we shall have no duty to defend the "insured" against any "claim" which is not covered under any of these Insuring Agreements.
2. We may, upon the written consent of the "insured", make any settlement of a "claim" which we deem reasonable. If the "insured" withholds consent to such settlement, our liability for all "loss" resulting from such "claim" will not exceed the amount for which we could have settled such "claim", plus "defense expenses" incurred, as of the date we proposed such settlement in writing to the "insured". Upon refusing to consent to a settlement we deem reasonable, the "insured" shall, at its sole expense, assume all further responsibility for its defense, including all additional costs associated with the investigation, defense and/or settlement of such "claim".

CLAIM REPORTING

1. Claims Made Forms
2. Claims must be made during policy period or Automatic Extended Reporting Period (sometimes called Discovery Period) – usually 30-60 days.
3. Optional (or Supplemental) Extended Reporting Period – may be offered for terms from one year to five years. Premiums are fully earned, non-refundable and are quoted prior to policy issuance. Premiums can vary between 100% and 600% of expiring annual policy premium.

Sample Policy

B. Optional Extended Reporting Period

If the **Named Insured** or the Insurer cancels or non-renews any **Liability Coverage**, the **Named Insured** shall have the right to purchase, upon payment of an additional premium, an optional **Extended Reporting Period** to commence on the effective date of such cancellation or non-renewal. The additional premium and effective dates for the optional **Extended Reporting Period** shall be as set forth in the **Extended Reporting Period** Endorsement.

C. As a condition precedent to the right to purchase the optional Extended Reporting Period, the total premium for this Policy must have been paid. The right to purchase the optional Extended Reporting Period shall end unless the Insurer receives written notice and full payment of the premium for such period within 30 days after the end of the Policy Period.

D. If the optional Extended Reporting Period is purchased, the entire premium shall be deemed fully earned at its commencement without any obligation by the Insurer to return any portion thereof.

E. There is no separate or additional Limit of insurance for the Automatic or Optional Extended Reporting Period.

F. The first 60 days of the Optional Extended Reporting Period, if it becomes effective, shall run concurrently with the Automatic Extended Reporting Period.

16. Extended Reporting Periods

The provisions contained within this condition apply only to Insuring Agreements **1.** Web Site Publishing Liability, **2.** Security Breach Liability and **3.** Programming Errors And Omissions Liability.

a. Basic Extended Reporting Period

- (1) A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the "policy period" and lasts for 30 days. A "claim" first made and reported by the "insured" during this 30-day period will be considered to have been received within the "policy period". However, the 30-day Basic Extended Reporting Period does not apply to "claims" that are covered under any subsequent insurance purchased by the "insured", or that would be covered but for exhaustion of the Aggregate Limit of Insurance applicable to such "claims".
- (2) The Basic Extended Reporting Period does not extend the "policy period" or change the scope of coverage provided. It applies only to "claims" to which the following applies:
 - (a) The "claim" is first made and reported to us during the Basic Extended Reporting Period; and
 - (b) The "claim" arose out of either a "wrongful act" or the first of a series of "interrelated wrongful acts" which occurred on or after the Retroactive Date, if any, shown in the Declarations and before the end of the "policy period".

b. Supplemental Extended Reporting Period

- (1) A Supplemental Extended Reporting Period is available if this Policy is canceled or not renewed by either you or us, but only by endorsement and for an extra charge. The Supplemental Extended Reporting Period starts when the Basic Extended Reporting Period set forth in Paragraph **16.a.** ends. The Supplemental Extended Reporting Period is available unless:
 - (a) We cancel this Policy for nonpayment of premium; or
 - (b) You fail to pay any amounts owed us.

- (2) In order to obtain a Supplemental Extended Reporting Period, you must give us a written request for the Supplemental Extended Reporting Period Endorsement together with the full payment of the additional premium for the endorsement within 30 days after the end of the "policy period". The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

- (3) The Supplemental Extended Reporting Period does not extend the "policy period" or change the scope of coverage provided. It applies only to "claims" to which the following applies:

- (a) The "claim" is first made and reported to us during the Supplemental Extended Reporting Period; and
- (b) The "claim" arose out of either a "wrongful act" or the first of a series of "interrelated wrongful acts" which occurred on or after the Retroactive Date, if any, shown in the Declarations and before the end of the "policy period".

- (4) Once in effect, the Supplemental Extended Reporting Period may not be canceled. The premium for the Supplemental Extended Reporting Period Endorsement will be deemed to be fully earned as of the date it is purchased.

- c. There is no separate or additional Aggregate Limit of Insurance for the Basic Extended Reporting Period or the Supplemental Extended Reporting Period. The limit of insurance available during the Basic Extended Reporting Period, and the Supplemental Extended Reporting Period if purchased, shall be the remaining amount, if any, of the Aggregate Limit of Insurance of the respective Insuring Agreement, subject to the remaining amount of the Policy Aggregate Limit of Insurance at the time this Policy was canceled or nonrenewed.

ADDITIONAL POLICY SERVICES

1. Loss Control Services

a. Pre-Breach Preparedness Assistance

- A free loss control information service is provided with each policy. Includes compliance and breach response information, email alerts of key legal and regulatory developments, and expert on-line support for client questions on data security issues.

2. Risk Audits & Vulnerability Assessments

3. Data Security Risk Management Services

4. Training & Compliance

5. Newsletters

6. Procedures

7. Post-Breach Notification Services

POLICYHOLDER SERVICES

NEW SERVICES INCLUDE

- Training and Awareness Programs
- Animated Staff Training Programs
- Expanded HIPAA Compliance Tools

DATA SECURITY RISK MANAGEMENT

NoDataBreach.com provides risk management policies, procedures, training, and other tools to help insureds prevent a breach of confidential data.

As a Beazley Breach Response® policyholder, you have unlimited access to:

ON-LINE COMPLIANCE MATERIALS

Federal and state compliance materials regarding data security, data breaches, and data privacy, including:

- Quick Tips on many subjects; Summaries of federal/state laws
- Links to statutes & regulations; Sample policies & procedures
- Continuing updates and electronic notification of significant changes to the on-line materials

QUARTERLY NEWSLETTER & "INSTANT ALERTS"

Sent by email, learn about changes in federal and state laws regarding data security, data breach, and data privacy issues; Instant Alerts sent by email for events require immediate attention.

EXPERT SUPPORT ON-LINE

Experts support from consultants/attorneys on data security issues; including:

- Health care & HIPAA compliance issues
- Data breach prevention issues
- Data Security best practices
- Computer forensic issues

STEP-BY-STEP PROCEDURES TO LOWER RISK

Procedures and on-line forms help you:

- Understand the scope of "personal information" ("PI")
- Determine where PI is stored
- Collect and/or retain the minimum amount of PI as required for business needs
- Properly destroy PI that is no longer needed
- Implement an Incident Response Plan

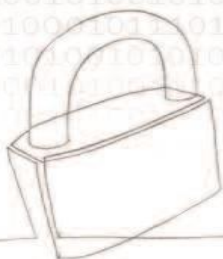
TRAINING MODULES

- Comic Strip training
- Online training programs; Employee training bulletins
- Webinars for privacy compliance and IT staff
- Audio and PodCast training for managers and/or employees

HANDLING DATA BREACHES

Guidance provided to:

- Help prevent data security incidents
- Respond to a data breach



NoDataBreach.com

Powered by ePlace Solutions, Inc.



5

FREE \$5,000 VALUE

Risk Management Services

Evolve has teamed up with specialist security experts to help strengthen, improve, and protect your organization. Each Evolve policyholder has the benefit of using the following services at no additional cost:

BITSIGHT

BITSIGHT

50 PAGE VULNERABILITY ASSESSMENT

Bitsight's full report provides the technical insight to strengthen any organization's security. Your IT department can look to improve areas where there are low scores.

NINJIO

NINJIO

SECURITY AWARENESS VIDEO TRAINING

4 minute "gamified" video episodes on real breaches that train your employees on how to avoid falling victim to hack attacks.



INTENTIONAL PHISHING

PHISHING OUT CYBER THREATS

This phishing tool will intentionally try to trick your employees to "click" on suspicious links. Once clicked, the employee will be prompted through an online e-training course to prevent a future attack.



INCIDENT RESPONSE PLAN BUILDER

BUILD A STRONG INCIDENT RESPONSE PLAN

Do you have a cyber breach incident response plan in place? If not, our incident response experts will help you build a robust plan that can effectively reduce the impact of a cyber event.



REP KNIGHT

I-SPY YOUR INFORMATION

The RepKnight breach monitoring service continually searches the dark web for information specific to your organization and alerts you in real time to possible breaches of your data. This proactive approach helps you minimize the fallout from a variety of cyber incidents.

For access, please email:
RISKMANAGEMENT@EVLVEMGA.COM

Checklist of Coverage Features

- ✓ Duty to Defend Wording?
- ✓ Any Safeguard Exclusions?
- ✓ Insured vs. Insured Exclusions?
- ✓ Are employee suits covered?
- ✓ Coverage for information regardless of the medium?
 - ◆ Are paper files covered?
- ✓ Coverage for failure to comply with own security policy?
- ✓ Coverage trigger?
- ✓ Incident or lawsuit?

ISO Cyber Program

The ISO E-Commerce Program policies are being renamed effective January 1, 2018.

- Information Security Protection Cyber Policy (previously known as the Information Security Protection Policy) CY 00 10;
- Financial Institutions Information Security Protection Cyber Policy CY 00 11.
- Media & Information Security Protection Cyber Policy CY 00 12.
- Media & Information Security Protection Cyber Policy CY 00 13.

COMMERCIAL CYBER INSURANCE POLICY

(CY 00 01)

- Security Breach Expense
- Extortion Threats
- Replacement or Restoration of Electronic Data
- Business Income and Extra Expense
- Public Relations Expense
- Security Breach Liability

The ISO filing is being made effective January 1, 2018 to provide a stand-alone cyber policy to be available to small to mid-sized commercial risks.

The Financial Management of Cyber Risk – 50 Questions Every CEO Should Ask

- American National Standard Institute
- *The Financial Management of Cyber Risk* introduces a new framework for managing and reducing the financial risk related to cyber-attacks, which threaten businesses, national security, and the international community.
- The 76-page document offers a pragmatic action plan that addresses cybersecurity from an enterprise-wide perspective. Developed by a task force of more than sixty industry and government experts, *The Financial Management of Cyber Risk: An Implementation Framework for CFOs* has been funded and managed by the private sector and is offered as a free resource on cyber risk mitigation for organizations across the country.
- <http://webstore.ansi.org/cybersecurity.aspx>



Specific Markets for E-Commerce & Cyber Liability Coverages

Information about Cyber Markets

- **The Betterley Report**

CYBER/PRIVACY INSURANCE MARKET SURVEY – 2018

<https://www.irmi.com/online/betterley-report-free/cyber-privacy-media-liability-summary.pdf>

- ◆ **RPS – Risk Placement Services**
- ◆ **ACE**
- ◆ **Zurich North America Financial Enterprises**
- ◆ **CNA PRO - E-Pack Policy**
- ◆ **CNA NetProtect**
- ◆ **AIG / Chartis**
- ◆ **Chubb**

- ◆ **Admiral TechPac**
- ◆ **Hartford CyberFlex, Failsafe & CyberChoice**
- ◆ **Travelers Hacker Coverage**
- ◆ **Travelers**
- ◆ **Axis Pro**
- ◆ **E-Risk Services – BAM**
- ◆ **Bailey Special Risks**
- ◆ **Hartford Steam Boiler**
- ◆ **USLI**
- ◆ **Lloyds, London – Beazley Syndicate**
- ◆ **Philadelphia Insurance**

Summary & Conclusion

EXHIBITS

EXHIBITS

Hertel McClendon Cyber Security Checklist



Cyber security is an ongoing process to deter hackers and protect against viruses and other risks to networked businesses. This handout provides tips to assist business owners and managers in assessing their cyber security plans and procedures. How prepared are you for a data security breach? Contact us today for a free Cyber Liability quote: [888-692-2474](tel:888-692-2474)

MANAGEMENT

- Have you created security policies to match the size and culture of your business?
- Are security policies written, enforced and updated?
- Have you established a computer software and hardware asset inventory list?
- Have you classified data by its usage and sensitivity?
- Have you established ownership of all data?

BUSINESS PRACTICES

- Do you have an emergency response plan?
- Have you systematically evaluated all of the potential sources of disruption to your business?
- Do you have an active program to reduce the likelihood of a disruption?
- If you could not re-enter the workplace because of an emergency, do you have a pre-determined location to meet?
- Do you maintain a list of employees, customers and suppliers at an off-site location?
- If you lost a critical system, do you have a pre-determined plan to restore the system?
- Is your business resumption plan securely stored in a remote location?
- Do you periodically test your business resumption plan along with your site emergency response plan?

EMPLOYEES

- Do you have anti-virus software loaded and active on your computer?
- Do you delete, without opening, emails from unknown sources?
- Do you back up data on a regular basis?
- Do you utilize strong, hard-to-guess passwords?
- Do you use personal firewalls?

IT STAFF

- Are you maintaining configuration management through security policy implementation and systems hardening?
- Are you maintaining software patch management on all systems by following a regular schedule for updates?
- Do you subscribe to security mailing lists?
- Are you performing security testing through security audits and penetration scanning?
- Are you ensuring physical security of systems and facilities?
- Do you ensure users have anti-virus software loaded and active on their systems?
- Are you maintaining operational management through the review of all log files, ensuring systems backups with periodic data restores and reporting any known issues or risks?

For More Information Contact:

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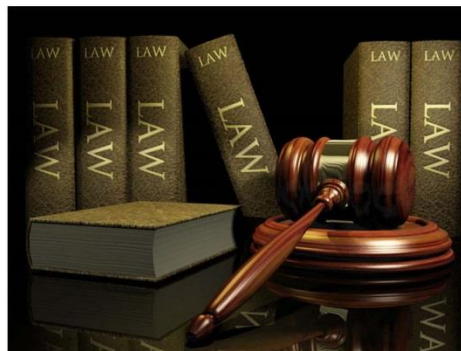
The biggest threat to a law firm isn't found in litigation.
It's found online.

Introducing a Cyber and Privacy Liability Product for Businesses Practicing Law

As our society becomes increasingly dependent on electronic media in our everyday lives, perhaps nowhere are the benefits - and the risks - more apparent than in professional businesses devoted to the practice of law. Attorneys use the internet and a variety of wireless devices to transmit everything from corporate and private client meeting notes to employee information and briefing papers.

A firm must weigh the pros and cons of using technology to better their client's online experience. As a risk advisor, it is critical to ask your client this question: "What would be the worst-case scenario for your office if the information in your custody found its way into the wrong hands?" Unfortunately, there are hundreds of real-life examples that can show us the outcome. Only through examining these are we able to truly assess the importance of how we handle the personal information of employees, partners, corporate clients and prospects and develop concrete plans for managing their risks.

Risk Placement Services, Inc. is a national leader in Cyber & Privacy Liability Insurance. Implementing Cyber coverage as a risk-transfer tool has become a critical element in any risk management program. The question is not *if* a data breach will occur, it is *when*. By partnering with the leaders in the industry, your client will be better prepared.



WHAT IS OFFERED?

Professional businesses are among the most vulnerable targets for theft of private data. Specialized insurance coverage is now available and can offer protection in the following areas:

- Network Security Liability
- Media Content Services Liability
- Privacy Liability
- Extortion Threat
- Crisis Management
- Credit Monitoring
- Privacy Notification Expense
- Regulatory Liability

CONTACT

RPS TECHNOLOGY & CYBER

National Cyber Liability Underwriting Team
204 Cedar Street
Cambridge, MD 21613
Email: TechCyber@RPSins.com
Web: www.RPSins.com/TechCyber
Phone: 800.336.5659

Cyber & Privacy Liability Insurance Program for Law Firms

Cyber & Privacy Insurance Coverage for Businesses Practicing Law

Real-life data breach incidents in law offices across the United States

The following are more than scenarios - they are actual data breaches that have occurred in law firms across the United States.* Incidents such as these have the potential to shut down businesses and cost millions of dollars in legal defense, notification expenses, credit monitoring, crisis management and business interruption. Traditional insurance policies exclude coverage for events such as these.

UNINTENTIONAL DATA LEAKS

Personal information from a New Jersey law office was mistakenly posted on social websites. Investigators discovered several cached versions of an excel file containing names, addresses, dates of birth, account numbers and financial information of several thousand employees and clients.

The Georgia Governor's Office of Consumer Affairs discovered hundreds of employee records from a prominent Atlanta law firm had been tossed into a dumpster. Records included W-2 forms with addresses and Social Security numbers.

In Houston, Texas, an individual purchased a used computer from a pawn shop. He discovered sensitive financial information on the computer and traced it back to the law office of a Texas attorney. The computer had been donated to charity and subsequently resold to the pawn shop.

HACKING

A leading financial services company with multiple locations discovered that a hacker had broken into their database and obtained the names, Social Security numbers and financial information of 14,000 customers. The financial information contained account numbers and balances.

*Real-life data breach incidents, reprinted from public news accounts aggregated at www.databreaches.net

STOLEN RECORDS

In Burke County, North Carolina, investigators discovered and arrested a night custodian after uncovering a cache of illegally obtained court records at his home. The custodian, while working overnight at the District Attorney's office, had made copies of sensitive documents in ongoing criminal cases and was actively trading them for drugs.

STOLEN HARD DRIVE

Computers and hard drives were stolen during a burglary at a Boca Raton, Florida law firm. The computers contained the names, Social Security numbers and addresses of over 2,000 current and former clients. The stolen computers were recovered, but had been overwritten with new programs and were ready to be resold.



GET A QUOTE TODAY

The ramifications of real-life data breaches such as these are excluded by traditional insurance policies. RPS Technology & Cyber works with agents throughout the United States to educate and help protect their valued clients.

Call **800-336-5659** for more information or to speak to one of our National Sales Executives about cyber protection for your customers.

Cyber & Privacy Liability Insurance Program for Law Firms

Cyber & Privacy Liability Coverages for Businesses Practicing Law

Network Security Liability

A part-time employee, working at a large law firm, was able to gain access to the office's computer system via a temporary password. Disgruntled over his inability to gain permanent employment, the employee engineered a virus designed to paralyze the firm's intranet and database. The virus caused the office to shut down for two days and delayed payroll for the employees. Network Security Liability protects businesses from losses associated with unauthorized access to or theft of customer, employee or other proprietary data or e-business activities, computer viruses, denial of services attacks, as well as alleged unauthorized e-commerce transactions.

Media Content Services Liability

A downtown law office created a page on their website to showcase a "Festival of Trees" decorating competition in their lobby between local high schools. A section of the site contained a voting poll and an online chat forum. In this forum, disparaging remarks were posted by students against a competing schools' artwork and creative ideas specifically naming individuals. Parents of the students are suing the firm for personal injury as a result of its failure to monitor the activity on its website. Media Content Services Liability can cover businesses for personal injury and intellectual property infringement that is a result of published media content.

Privacy Liability

The username and password required to enter a law office's database was printed on a sticky note affixed to a monitor in the front office. A member of the cleaning crew used the password to gain access to the personal information of the firm's clients, then posted the sensitive information anonymously in an online chat room. A lawsuit was filed on behalf of the affected parties against the firm for their failure to protect private data in their custody.

Extortion Threat

A laid-off first-year associate was arrested after he tried to extort money from the business that employed him by threatening to crash their computer system. Demanding a better severance package, he also threatened to use his connections with hackers in Eastern Europe to wreck havoc on private information of clients stored online. Disgruntled employees, vengeful defendants and even angry clients can cause significant harm by threatening to attack a computer system. This coverage can include payments made to avert a cyber attack.

Crisis Management

After the names and Social Security numbers of hundreds of A-List celebrities were stolen from a senior partner's laptop, a Los Angeles law firm that specializes in entertainment contracts, needed to act fast to ensure compliance with the law, and, almost as importantly, to restore the trust of their clients. Deciding that the magnitude of the situation was beyond their professional ability, the counsel hired a public relations firm with expertise in situations such as these. Crisis Management coverage helps to offset the expense of engaging a PR firm when the breach of private information has the potential to affect a business's reputation.

Credit Monitoring

When a data breach has occurred, the difference between sending a letter to the affected parties with the toll-free number of a credit reporting agency versus sending instructions about how to enroll in credit monitoring services at no cost can have a major impact on your firm's reputation. Data breach victims want to know that the people they have entrusted with their information are taking on the responsibility of making sure they will not be affected negatively. Credit Monitoring coverage provides this assurance for professional businesses.

Privacy Notification Expense

The personal financial information of 8,300 National Law Foundation customers was unintentionally distributed in an email attachment. To comply with state laws, significant costs were incurred for notifying the affected parties. Privacy Notification Expense provides coverage to address first-party expenses to comply with privacy law notification requirements.

Regulatory Liability

As a public entity, your clients are charged with protecting the privacy of all sensitive data in their care, custody or control. Failure to do so can result in significant fines, penalties and costly litigation expenses or investigations by federal or state regulators. Cyber & Privacy Coverage can provide protection in these situations.

The claims examples mentioned herein are for illustrative purposes and this literature is descriptive only. Actual coverage is subject to the language of the policies as issued. Whether or not or to what extent a loss is covered depends on the facts and circumstances of the loss and the terms and conditions of the policy as issued. Not all insurers do business in all jurisdictions. © 2011 Risk Placement Services, Inc. All rights reserved.

CFO Cyber Risk Assessment



NetDiligence® QuietAudit® Cyber Risk Assessments are a thorough, efficient way for your organization to document its cyber risk posture and data security readiness. Insurers recognize the value of a NetDiligence® assessment; it allows them to validate that your organization has certain key safeguards and practices in place. Our CFO Cyber Risk Assessment utilizes a unique two-pronged approach to evaluating your organization's cyber risk exposures.

QuietAudit®

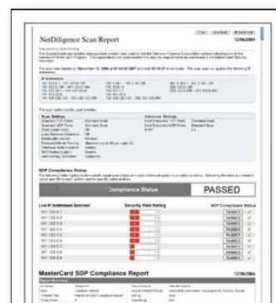
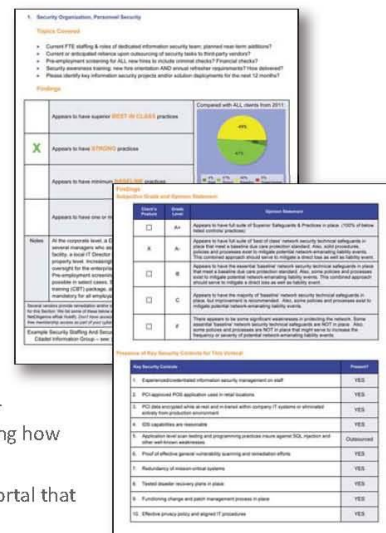
Test your strengths, know your weaknesses.

CFO Cyber Risk Assessment

Step 1: Health Check

The first step in our CFO Cyber Risk Assessment is our baseline Health Check. The NetDiligence Health Check evaluates your people, processes and technology to ensure your organization has a solid base upon which to build a robust cyber risk management program.

- NetDiligence hosts and conducts the assessment by telephone interview. We typically speak with the person in charge of your firm's IT assets. The interview lasts approximately 1½ hours.
- NetDiligence then prepares an Executive Level summary report that includes:
 - An outline of your firm's data security strengths and weaknesses along with actionable recommendations to improve your cyber risk posture.
 - 'Scores' of your cyber risk across key practice areas. Using a peer comparison feature we can also offer benchmark guidance regarding how your firm's practices compare to other organizations.
 - Referrals to free tools (e.g., sample policies) in the eRisk Hub® portal that can be used to address actionable shortcomings.



Step 2: Website Vulnerability Scan.

For a 'hands-on' analysis of how well your network is protected against threats and vulnerabilities, NetDiligence performs a network vulnerability scanning service to test the effectiveness of firewalls and web servers. This service can identify 6000+ vulnerabilities that hackers exploit, including unpatched, non-hardened or misconfigured externally-facing network servers and devices.

NetDiligence®

Contact us at 610.525.6383 or management@netdiligence.com.

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Test your strengths, know your weaknesses.

Cyber Risk Assessments

NetDiligence® Cyber Risk Assessments give you a 360 degree view of your people, processes and technology, so you can:

- Reaffirm that reasonable practices are in place
- Harden and improve your security
- Qualify for network liability and privacy insurance
- Bolster your defense posture in the event of class action lawsuits

NetDiligence stores your assessment results online, so it's easy to re-evaluate your risk posture regularly and monitor changes over time. As your organization grows, new threats emerge and lawsuits multiply – you keep your company protected.



Are you ready?

Today's sophisticated, highly networked business environments are often porous, exposing companies of all types and sizes to evolving cyber risks and growing liability. Threats include hacking, malicious damage, denial-of-service attacks, information extortion, web-based intellectual infringement activities, employee mistakes, software glitches and privacy policy violations. Any of these can lead to tarnished reputations and class-action lawsuits.

What's your Risk Profile?

With cyber risks growing daily, many companies don't know

where they're most vulnerable; who has access to their data; whether their network security measures meet legal standards for prudent and

reasonable safeguards.

NetDiligence can help you answer these critical questions. Our Cyber Risk Assessments document your company's Risk Profile, so you know where your

exposures are and can take the appropriate actions to mitigate them.

Are you insurable?

A growing number of companies offer coverage for privacy- and cyber-related risks.

To qualify for this type of insurance, however, you must be able to demonstrate that you have implemented baseline security measures. Our Cyber Risk Assessments provide you with the documentation you need to demonstrate your organization's good-faith adherence to regulations and generally accepted security standards.

Is your security defensible?

When a data breach occurs, you may find yourself faced with a class action lawsuit. When dealing with a plaintiff lawyer, judge and jury, you need to be able to demonstrate that you took due care protecting your customers' sensitive information and that you had baseline security in place at the time of the breach. With our Cyber Risk Assessments, you can prove that your organization is proactive in its security efforts. This increases the odds that the court will rule in your favor and reduces the likelihood of a huge settlement.

NetDiligence
Cyber Risk Management & Information Security Services

Are you ready?

Test your strengths, know your weaknesses.

There's no such thing as perfect security.

Data leaks, data breaches and privacy violations will happen. Knowing this, the actions you take today matter.

1. Assess
2. Harden
3. Insure
4. Defend
5. Repeat

By following this time-tested process, you can reduce the number of incidents, transfer some of the risk to your insurance partner, and defend your company against plaintiff lawyers seeking huge sums in damages.

At the heart of the matter.

Compliance. Insurance. Legal Defense.

Protecting your company from cyber risk involves a multi-layered strategy that includes strict compliance with regulations and generally accepted security standards, a good cyber risk insurance policy, and documented evidence of your safeguards that can be presented in a court of law, if necessary.

NetDiligence is uniquely positioned to assist your organization with all three aspects of your cyber risk management strategy. Our cyber risk assessment services allow our corporate and financial institution clients to better protect their computer networks and information assets; qualify for cyber risk insurance; and successfully defend

themselves against class action lawsuits. NetDiligence utilizes proprietary methodologies and tools with roots grounded in traditional risk management principals. We help our clients effectively eliminate, manage, retain and transfer various forms of cyber-based risk.

QuietAudit®

QuietAudit® is the foundation of our cyber risk assessment services. This web-based tool features a user-friendly, automated process that enables you to easily evaluate your organization's level of cyber security.

The assessment consists of approximately 150 questions focused on the spirit of the ISO 27002 security standard, along with specific sections that address regulatory compliance issues. Key risk categories addressed by QuietAudit include:

- Current events
- Security policy
- Security organization
- Asset classification and control
- Personnel security
- Physical and environmental security
- Computer and network management
- System access controls
- System development and maintenance
- Business continuity planning
- Security compliance
- Privacy

In addition, there are optional modules designed to help you evaluate your security posture for compliance with specific regulations such as GLBA 501b and HIPAA Security Rule.

After you complete the assessment, you receive an automated scorecard that identifies your areas of strengths and weakness, and compares your level of security to that of your peers. The complete report and scorecard serves to document your pro-active risk management practices and verify your eligibility for network liability and privacy insurance.



NetDiligence
Cyber Risk Management & Information Security Services

www.NetDiligence.com

Are you ready?

Test your strengths, know your weaknesses.

Guided Assessments

Level 0 – Health Check

Our “Health Check” is a baseline assessment that can be conducted either online or by telephone.

Online

Key personnel within your organization complete a risk assessment survey using our QuietAudit system. After you complete the QuietAudit survey, NetDiligence’s experienced security experts review your risk profile to identify red flags, prepare an Executive Summary and conduct a telephone debriefing with your organization’s management team.

By Telephone

NetDiligence develops a customized survey for your organization. NetDiligence then completes the survey on your behalf by conducting a telephone interview with your IT security and privacy personnel. Using the information obtained during the interview, NetDiligence’s security experts review your risk profile to identify red flags, prepare an Executive Summary and conduct a telephone debriefing with your organization’s management team.



Level 1 – Remote Assessment

After you complete our QuietAudit survey, NetDiligence conducts interviews with key staff inside your

organization, reviews your data security and privacy procedures and conducts a network perimeter vulnerability scan test. The results are compiled into a detailed report that measures your organization’s adherence to generally accepted security standards.

Level 2 – Onsite Assessment

In addition to the QuietAudit survey and the independent, objective review of your security and privacy procedures and network perimeter security (as described in Level 1), NetDiligence conducts onsite inspection of the physical security in and around your data center and interviews multiple staff members, including IT security, Risk Manager, Legal Counsel, Privacy Officer and BCP/DP Manager. We compile our results into a comprehensive report that measures your organization’s adherence to generally accepted security standards, such as ISO 27002.

Since 2000, NetDiligence services have been used by leading insurers and brokers in the US & UK that offer network liability (hacker) insurance.

ACE Global Markets™
ACE USA™
Admiral Insurance
Allied World Assurance Company
AON
Arch Insurance Group™
Arthur J. Gallagher
Aspen
Axis Capital
Barbican Insurance Group
Brit Insurance
Beazley Group
Carpenter Moore
Chartis
Chubb
Click For Cover (CFC)
Digital Risk Managers
Hiscox
Hyland
INSUREtrust
Ironshore
JLT Risk Solutions Group
Kilin
Marsh
McGriff Seibels & Williams
Philadelphia Insurance Companies
RLI Insurance
Safeonline™
The Hartford
Travelers
United States Liability Insurance Group
Wells Fargo Insurance Services
Willis
XL Insurance
Zurich NA

Network Vulnerability Scan Testing

Safe Scan – Network Vulnerability Penetration Testing

For businesses and financial institutions looking for a ‘hands-on’ analysis and understanding of how well their network is actually protected against prevalent threats and vulnerabilities, NetDiligence offers an effective network vulnerability scanning services to test the efficacy of perimeter devices such as firewalls, DNS and web servers. This service will identify 6,000+ vulnerabilities that hackers can exploit due to unpatched, non-hardened or misconfigured externally facing network servers and devices.

NetDiligence
Cyber Risk Management & Information Security Services

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Are you ready?

Test your strengths, know your weaknesses.

The thing that truly sets NetDiligence apart is their assessment methodology. Their holistic approach towards network security and business continuity management gives them the ability to gauge whether or not an organization has a sufficiently mature risk management culture in place.

Brad Gow
Endurance Insurance

From the planning stage through and including the actual assessment, NetDiligence provides professional expertise, informative data, and critical guidance. Their employees are all highly capable and knowledgeable. The assessment report provides all the data needed to assist us in maintaining and/or improving the quality and adequacy of our cybersecurity controls.

Gregory Rankin
The South Financial Group

NetDiligence provides a level of knowledge, professionalism and courtesy that is unsurpassed in the industry. The network assessment process that they have developed and employ is comprehensive in scope, without being overbearing. NetDiligence is truly unique, and will continue to be an indispensable part of our team.

Anne DeVries
Digital Risk Managers

Be prepared.

Whether you're concerned with compliance, insurance, legal defense or all of the above, the actions you take today are of paramount importance. Don't wait until you've experienced a breach to deal with these issues. Address them now, before the bad event happens. Be prepared.

NetDiligence is dedicated to the development and delivery of unique cyber risk assessment services that address your compliance, insurance and legal defense needs. We have assessed and tested hundreds of businesses over the past few years specifically for network liability insurance qualification purposes. We have assisted in the defense against class action lawsuits.



NetDiligence can help you prepare for the day that your company is breached. Our management team has provided leadership in this market since early 1998, when we pioneered some of the first network risk insurance products in the marketplace. Our security engineers are highly skilled with certifications, law degrees, and security work experiences from IBM and EDS. By leveraging our combined insurance and technical expertise, and adhering to traditional risk management principals, we offer practical and effective solutions that enable your organization to develop and maintain a sound cyber risk management strategy.

Contact us at 610.525.6383

NetDiligence®, A Company of Network Standard Corporation
P.O. Box 204
Gladwyne, PA 19035

NetDiligence
Cyber Risk Management & Information Security Services

www.NetDiligence.com



Insurers & Brokers

A One-Stop Shop for Data Breach Response

When a breach event occurs, time is of the essence. With a good response plan in place and access to highly skilled third-party resources, an organization can more efficiently and cost-effectively respond to and recover from a data breach.

The eRiskHub® portal, powered by NetDiligence®, is an effective way to help both insurers and their clients combat cyber losses with minimal, controlled and predictable costs. This SaaS offering provides tools and resources to help clients understand the exposures, respond effectively and minimize the effects of breaches on their organizations.

Our mobile-friendly, flexible platform can be branded, customized and delivered to any domain. Plus, it's scalable! Start small and increase your license as you grow. You can also add content for other geographic regions as you expand globally.

CLIENT TESTIMONIALS

The support team responded in less than a minute when I put my question into the queue via the site. I'm so impressed with this team!

Your response to our needs and customer service is fantastic! Please forward my appreciation to your supervisor on a job well done!

Personalized Support

With NetDiligence's help, you can launch your branded and customized version of the portal very quickly.

NetDiligence's eRiskHub Support Team will work with you to implement your portal and provide you with branded marketing materials to promote your portal to existing and prospective clients.

After you launch your portal, the eRiskHub Support Team will keep it updated with new content and respond to any questions your clients may have.

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NetDiligence®



LOSS CONTROL

Risk Management

News & Education

Response Guidance

Key Features of the eRiskHub® Portal

- Mobile-friendly Platform – The eRiskHub® portal can now be accessed from any desktop, tablet, or mobile device.
- Breach Coach® – includes suggested steps to take following an incident, free consultation with a Breach Coach and access to a breach response team.
- News Center – cyber risk stories, security and compliance blogs, risk management events and helpful industry links.
- Learning Center – best-practices articles, whitepapers and webinars from leading technical and legal practitioners.
- Risk Manager Tools – assists you in managing your cyber risk including free self-assessments, cost calculators, policy templates and a guide to state breach notification laws.
- Security Awareness – your clients can access free online security training courses to educate staff about baseline data security and privacy-related issues.
- Experts/Vendors – a directory to quickly find external resources with expertise in pre- and post-breach disciplines.



It's a Win-Win

The eRiskHub® portal is an effective way to help both you and your clients combat cyber losses with minimal, controlled and predictable costs.

Contact Us

610.525.6383 | management@NetDiligence.com

NetDiligence®



James K. Ruble Seminar

a proud member of The National Alliance for Insurance Education & Research

Section 3

Solving Troublesome Liability Issues

Solving Troublesome Liability Issues

*R. BRYAN TILDEN, CIC, C.P.C.U., CLU, ARM, SCLA
TILDEN AND ASSOCIATES
PITTSBORO, NORTH CAROLINA*

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I. Overview of the Presentation

A. What are small to middle market commercial accounts?

B. Many definitions

C. Measurement factors

1. Type of business
2. Number of employees
3. Financial (gross sales/payroll) – many brokers believe that middle market is \$50 to \$750 million revenue
4. Premium size – middle market \$100,000 to \$2.5 million premium
5. Number of policies

D. Liability coverage issues similar, but can be more complex

II. Understanding Occurrence versus Claims Made

A. Extended Reporting Periods

1. All claims made during an Extended Reporting Period will be deemed to have been received and recorded on the last day of the policy period
2. The insured is guaranteed the right to an Extended Reporting Period

- GUARANTEED by policy
- Policy CANCELLED
- RENEWED with RESTRICTIONS
- RETROACTIVE DATE ADVANCED
- REPLACED by OCCURRENCE FORM

- | |
|--|
| <ol style="list-style-type: none">1. We will provide one or more Extended Reporting Periods, as described below, if:<ol style="list-style-type: none">a. This Coverage Part is <u>cancelled or not renewed</u>; orb. We <u>renew or replace</u> this Coverage Part with insurance that:<ol style="list-style-type: none">(1) Has a <u>Retroactive Date later</u> than the date shown in the Declarations of this Coverage Part; or(2) <u>Does not apply to "bodily injury," "property damage," "personal and advertising injury" on a claims-made basis.</u> |
|--|

3. Reasons for wanting
 - a) **Policy cancelled**
 - b) **Retroactive date advanced**
 - c) **Replaced by occurrence form**
 - d) **Renewed with restrictions**

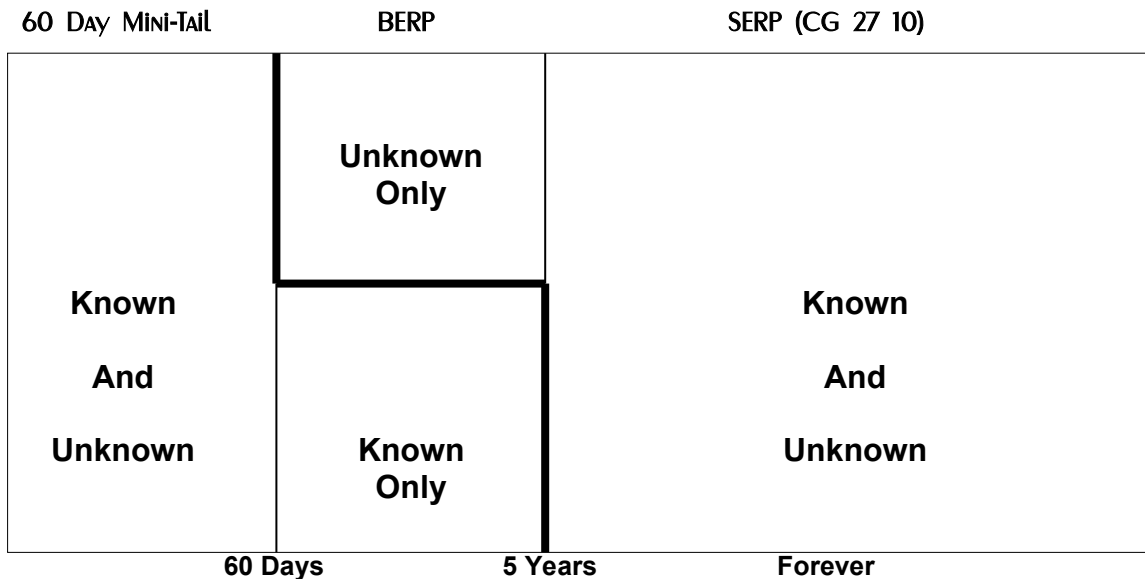
4. Basic Extended Reporting Period

- FREE
- 5 YEARS TO MAKE CLAIM FOR BI AND PD REPORTED DURING policy
- 5 YEARS TO MAKE CLAIM FOR PI AND AI REPORTED DURING policy
- 60 days ALL OTHERS (Mini Tail)

3. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the policy period and lasts for:

- Five years for claims because of "bodily injury" and "property damage" arising out of an "occurrence" reported to us, not later than 60 days after the end of the policy period, in accordance with Paragraph **2.a.** of the Section **IV – Duties In The Event of Occurrence, Offense, Claim Or Suit Condition**;
- Five years because of claims for "personal and advertising injury" arising out of an offense reported to us, not later than 60 days after the end of the policy period, in accordance with Paragraph **2.a.** of the Section **IV – Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition**; and
- Sixty days with respect to claims arising from "occurrences" or offenses not previously reported to us.

The Basic Extended Reporting Period does not apply to claims that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such claims.



5. Supplemental Extended Reporting Period

- FOREVER
- EXTRA CHARGE
- BEGINS WHEN BASIC ENDS
- WRITTEN REQUEST WITHIN 60 DAYS
- PAY PREMIUM TO GO INTO EFFECT
- 200% MAXIMUM CHARGE
- SERP IS EXCESS

5. A Supplemental Extended Reporting Period of unlimited duration is available, but only by an endorsement and for an extra charge. This supplemental period starts when the Basic Extended Reporting Period, set forth in paragraph 3. above, ends.

You must give us a written request for the endorsement within 60 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

- a. The exposures insured;
- b. Previous types and amounts of insurance;
- c. Limits of Insurance available under this Coverage Part for future payment of damages; and
- d. Other related factors.

The additional premium will not exceed 200% of the annual premium for this Coverage Part.

This endorsement shall set forth the terms, not inconsistent with this Section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded for claims first received during such period is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period starts.

Summary of Final "Tail" Multipliers

Years in Program	Premises	Operations	Products
1	.20	.25	.33
2	.30	.39	.60
3	.36	.46	.79
4	.41	.52	.97
5	.46	.56	1.26

6. Effect on Limits of Insurance

a) Basic Extended Reporting Period

- NO NEW LIMITS

4. The Basic Extended Reporting Period does not reinstate or increase the limits of insurance.

b) Supplemental Extended Reporting Period

- REINSTATES AGGREGATE
- UNKNOWN AND UNREPORTED OCCURRENCES
- LIMITS AS OF END of policy

6. If the Supplemental Extended Reporting Period is in effect, we will provide the supplemental aggregate limits of insurance described below, but only for claims first received and recorded during the Supplemental Extended Reporting Period.

The supplemental aggregate limits of insurance will be equal to the dollar amount shown in the Declarations in effect at the end of the policy period for such of the following limits of insurance for which a dollar amount has been entered:

General Aggregate Limit

Products-Completed Operations Aggregate Limit

Paragraph 2. and 3. of Section III – Limits Of Insurance will be amended accordingly. The Personal and Advertising Injury Limit, the Each Occurrence Limit and Fire Damage Limit shown in the Declarations will then continue to apply, as set forth in paragraphs 4., 5. And 6. of that Section.

❖ Basic Extended Reporting Period

❖ Paid out of policy limits

❖ Supplemental Extended Reporting Period

❖ Reinstates aggregates at expiration

❖ Unknown and unreported occurrences only

7. Coverage Under Extended Reporting Periods

- DO NOT EXTEND policy
- COVERS INJURIES *BEFORE* TERMINATION
- CLAIMS MADE *AFTER* TERMINATION
- MAY NOT BE CANCELLED

2. Extended Reporting Periods do not extend the policy period or change the scope of coverage provided. They apply only to claims for:

- "Bodily injury" or "property damage" that occurs before the end of the policy period but not before the Retroactive Date, if any, shown in the Declarations; or
- "Personal and advertising injury" caused by an offense committed before the end of the policy period but not before the Retroactive Date, if any, shown in the Declarations

Once in effect, Extended Reporting Periods may not be cancelled.

8. Comparison of the Extended Reporting Periods

	<u>60 Day Tail</u>	<u>5 Year Tail</u>	<u>Supplemental Tail</u>
Automatic	Yes	Yes	Right to Purchase
Cost	Included	Included	Up to 200%
New Aggregate	No	No	Yes
All Occurrences	Yes	Reported Only	1 st 5 Years <i>Unknown</i> After 5 Years <i>All</i>
Time Limitation	Yes	Yes	No
Limits Excess Over Other Policies	No	No	Yes

Source: Jerry M. Milton, CIC, with permission

B. Claims Made Retroactive Date

1. No coverage for "Bodily Injury" or "Property Damage" that occurred prior to the Retroactive Date, if any, shown in the policy
2. Retroactive Date Options
 - a) **Policy Inception Date**
 - (1) First time on claims made from an Occurrence policy
 - (2) New claims made account from another carrier
 - b) **Earlier than policy inception date**
 - (1) Renewal of existing claims made policy
 - (2) New claims made account from another carrier for competitive reasons
 - c) **None as a Retroactive Date**
 - (1) When the timing of the "Bodily Injury" or "Property Damage" is not useful
 - (2) When a Specific Accident(s), Products, Work or Location(s) Endorsement is being used
3. Claims Made Pricing
 - a) **For claims made, the occurrence rates are modified by:**
 - (1) A discount to reflect the fact that claims made losses come earlier under the policy, and are therefore less affected by inflation
 - (2) An additional discount during the first four years because fewer claims will be covered during the initial years
 - b) **Discount factors used to convert occurrence rates to "mature" claims made rates:**

Premises	.96
Operations	.97
Products	.89

- c) **Additional discount factors applied to "mature" claims made rates during the first four years:**

Years in Program	Premises	50000-59999 90000-99999	Products
1	.70	.60	.56
2	.83	.74	.64
3	.89	.81	.79
4	.91	.84	.81
Mature	.95	.92	.89

4. Rules on advancing the retroactive date on a policy (Manual Rule)
 - a) **Written consent of the insured AND**
 - b) **One of the following allowable reasons for a company to advance the retroactive date:**
 - (1) Change in carriers
 - (2) Substantive change of risk
 - (3) Underwriting information withheld at inception
 - (4) Insured's request
 - c) **AND with written confirmation that an Extended Reporting Period has been offered**

C. Triggers of Coverage

1. Occurrence Version CG 00 01

b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory," and
- (2) The "bodily injury" or "property damage" occurs during the policy period.

- DURING THE policy PERIOD

- a) **Based on the date injury or damage occurred**
- b) **Date when claim made has no bearing**

2. Claims Made Version CG 00 02

a) Injury Must Occur

- ANYTIME AFTER RETROACTIVE DATE
- *SEE PAGE 5*
- BODILY INJURY OR PROPERTY DAMAGE
- DURING policy PERIOD

b. This insurance applies to "bodily injury" and "property damage" only if:

(2) The "bodily injury" or "property damage" did not occur before the Retroactive Date, if any, shown in the Declarations or after the end of the policy period; and

(3) A claim for damages because of the "bodily injury" or "property damage" is first made against any insured, in accordance with paragraph c. below, during the policy period or any Extended Reporting Period we provide under Section V – Extended Reporting Periods.

b) When a Claim Is Made

- CLAIM MADE AT EARLIEST
- NOTICE RECEIVED & RECORDED
- COMPANY MAKES SETTLEMENT
- ALL CLAIMS TO SAME PERSON
- CONSIDERED MADE AT TIME FIRST CLAIM MADE

c. A claim by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:

(1) When notice of such claim is received and recorded by any insured or by us, whichever comes first; or

(2) When we make settlement in accordance with paragraph 1. a. above.

All claims for damages because of "bodily injury" to the same person, including damages claimed by any person or organization for care, loss of services, or death resulting at any time from the "bodily injury", will be deemed to have been made at the time the first of those claims is made against any insured.

- (1) Based on the date the claim is first made against an insured for injury or damage
- (2) The occurrence of the injury or damage must occur after the retroactive date, if any, shown on the policy

III. Who Is An Insured

A. Three Types of Insured Under the CGL Policy

1. Named Insureds
2. Automatic Insureds, i.e., Directors, Officers, "Employees"
3. Non-automatic Additional Insureds Specifically Added by Endorsements

B. Reasons for Demanding Additional Insured Status

1. It can assure greater safety in a risk transfer - a "safety net" for a hold harmless agreement
2. It can give those parties who attempt to transfer potential risk direct rights under the other party's insurance
3. It may protect the party/ies who attempt the transfer of potential risk from subrogation
4. Provides the indemnitee with personal injury liability coverage

C. Why it is industry practice

1. Inducement to do business
2. Custom and practice
3. Lessen own exposure
4. Transfer control

D. How it is done

1. Indemnity clauses
2. Insurance policies
3. Financial guarantees
4. Combinations

E. Named insured defined

- NAMED INSURED

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

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

- INSURED

The word “Insured” means any person or organization qualifying as such under **Who Is An Insured (Section II)**.

Other words and phrases that appear in quotation marks have special meaning. Refer to **Definitions (Section IV)**.

F. All named insureds are to be considered insureds. All insureds, however, will not be named insureds

- SPOUSES

1. If you are designated in the Declarations as:

a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

- PARTNERS

b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

- MEMBERS

c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

- MANAGERS

- EXECUTIVE OFFICERS

d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your “executive officers” and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

- DIRECTORS

- TRUSTEES

e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

G. Newly acquired or formed organizations may qualify as named insureds

- NO OTHER INSURANCE

- 90 days

- NO BI OR PD BEFORE ACQUIRED

- NO PI OR AI COMMITTED BEFORE ACQUIRED

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
 - b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTOMATIC INSURED STATUS FOR NEWLY ACQUIRED OR FORMED LIMITED LIABILITY COMPANIES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Paragraph 3. Under Section II– Who Is An Insured is replaced by the following:

- 3.** Any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization.

However:

- a.** Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b.** Coverage **A** does not apply to “bodily injury” or “property damage” that occurred before you acquired or formed the organization; and

- c.** Coverage **B** does not apply to “personal and advertising injury” arising out of an offense committed before you acquired or formed the organization.

B. The last paragraph of Section II – Who Is An Insured is replaced by the following:

No person or organization is an insured with respect to the conduct of any current or past:

- 1.** Partnership or joint venture; or
- 2.** Limited liability company, unless Paragraph **A.** above applies;

that is not shown as a Named Insured in the Declarations.

H. Which persons should be listed as Named Insureds

1. Sole Proprietors
 - a) All exposures

COMMON POLICY DECLARATIONS

POLICY NUMBER. _____

	COMPANY NAME AREA	PRODUCER NAME AREA
NAMED INSURED	<u>Bubba Smith (a sole proprietorship)</u>	
MAILING ADDRESS	_____ _____	
POLICY PERIOD:	From _____ to _____ 12:01 A.M. Standard Time at your mailing address shown above.	
BUSINESS DESCRIPTION	_____	

IN RETURN FOR THE PAYMENT OF PREMIUM, AND SUBJECT TO THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

b) Limited to a specific business

COMMON POLICY DECLARATIONS

POLICY NUMBER. _____

	COMPANY NAME AREA	PRODUCER NAME AREA
NAMED INSURED	<u>Bubba Smith d/b/a Bubba's Bail Bonds (a sole proprietorship)</u>	
MAILING ADDRESS	_____ _____	
POLICY PERIOD:	From _____ to _____ 12:01 A.M. Standard Time at your mailing address shown above.	
BUSINESS DESCRIPTION	_____	

IN RETURN FOR THE PAYMENT OF PREMIUM, AND SUBJECT TO THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

2. Partnerships and joint ventures
a) **Name partners individually**

COMMON POLICY DECLARATIONS

POLICY NUMBER. _____

COMPANY NAME AREA		PRODUCER NAME AREA	
NAMED INSURED	Bubba Smith and Me Maw Jones d/b/a Smith and Jones (a partnership)		
MAILING ADDRESS	_____ _____		
POLICY PERIOD:	From _____ to _____ 12:01 A.M. Standard Time at your mailing address shown above.		
BUSINESS DESCRIPTION	_____		

IN RETURN FOR THE PAYMENT OF PREMIUM, AND SUBJECT TO THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

b) **Name partnership only**

COMMON POLICY DECLARATIONS

POLICY NUMBER. _____

COMPANY NAME AREA		PRODUCER NAME AREA	
NAMED INSURED	Smith and Jones (a partnership)		
MAILING ADDRESS	_____ _____		
POLICY PERIOD:	From _____ to _____ 12:01 A.M. Standard Time at your mailing address shown above.		
BUSINESS DESCRIPTION	_____		

IN RETURN FOR THE PAYMENT OF PREMIUM, AND SUBJECT TO THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

c) Past partnerships must be named

- PAST PARTNERSHIPS AND JOINT VENTURES MUST BE DECLARED

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

- (1) Can create coverage gaps
- (2) May need to maintain a policy for discontinued operations
- (3) Maintain on each successor's policy

3. Limited liability company (LLC)

COMMON POLICY DECLARATIONS

POLICY NUMBER. _____

COMPANY NAME AREA		PRODUCER NAME AREA	
NAMED INSURED	Possum Palace (a limited liability company)		
MAILING ADDRESS	_____ _____		
POLICY PERIOD:	From _____ to _____ 12:01 A.M. Standard Time at your mailing address shown above.		
BUSINESS DESCRIPTION	_____		

IN RETURN FOR THE PAYMENT OF PREMIUM, AND SUBJECT TO THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

- LLCs are hybrids of corporations and partnerships that attempt to combine the most favorable characteristics**
- Carefully organized LLCs are unincorporated associations that protect their members from the personal liability for the entity's debts and obligations while allowing the income, deductions and credits to pass through to the members**
- Care should be taken to make sure that insurance policies issued to the LLC actually recognize the LLC and its members as insureds**

4. Organization other than partnership, joint venture or limited liability company

COMMON POLICY DECLARATIONS

POLICY NUMBER. _____

COMPANY NAME AREA		PRODUCER NAME AREA	
NAMED INSURED	Al's Garage, Inc. (a corporation)		
MAILING ADDRESS	_____ _____ _____		
POLICY PERIOD:	From _____ to _____ 12:01 A.M. Standard Time at your mailing address shown above.		
BUSINESS DESCRIPTION	_____		

IN RETURN FOR THE PAYMENT OF PREMIUM, AND SUBJECT TO THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

- a) **A division of a corporation is not normally a separate legal entity**
 - b) **CGL includes insurance protection of all divisions, even if separate protection is purchased for a specific division**
5. Broad named insured wording
- a) **Consider what is intended to be included**
 - b) **“Any subsidiary organizations now existing or hereafter created”**
 - (1) Would preclude newly acquired subsidiaries
 - (2) Newly created are more often involved in similar or related activities than are newly acquired
 - c) **Institutions may need to have a broad named insured clause written to include organizations which are related but not necessarily owned or controlled**
 - d) **If a broad named insured clause is used and coverage is automatically afforded for all entities and all locations, any entities or locations not intended to be covered must be excluded**
 - e) **Listing of all individual entities may establish a precedent that implies a need to report**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION (FOR USE WHEN CONTRACTUAL LIABILITY COVERAGE IS NOT PROVIDED TO YOU IN THIS POLICY)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization (Additional Insured):		Location Of Covered Operations	
Bodily Injury And Property Damage Liability	Premium Basis Cost	Rates (Per \$1000 Of Cost)	Advance Premium
			\$
Total Advance Premium			\$

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

A. Who Is An Insured (Section II) is amended to include as an insured the person or organization (called "additional insured") shown in the Schedule but only with respect to liability arising out of:

1. Your ongoing operations performed for the additional insured(s) at the location designated above; or
2. Acts or omissions of the additional insured(s) in connection with their general supervision of such operations.

B. With respect to the insurance afforded to these additional insureds, the following additional provisions apply:

1. Exclusions **b., c., g., h.(1), j., k., l. and n.** under **Coverage A – Bodily Injury And Property Damage Liability (Section I – Coverages)** do not apply.

2. Additional Exclusions

This insurance does not apply to:

- a. "Bodily injury" or "property damage" for which the additional insured(s) are obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the additional insured(s) would have in the absence of the contract or agreement.
- b. "Bodily injury" or "property damage" occurring after:
 - (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or

- (2)** That portion of “your work” out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- c.** “Bodily injury” or “property damage” arising out of any act or omission of the additional insured(s) or any of their “employees”, other than the general supervision by the additional insured(s) of your ongoing operations performed for the additional insured(s).
- d.** “Property damage” to:
- (1)** Property owned, used or occupied by or rented to the additional insured(s);
 - (2)** Property in the care, custody, or control of the additional insured(s) or over which the additional insured(s) are for any purpose exercising physical control; or
 - (3)** Any work, including materials, parts or equipment furnished in connection with such work, which is performed for the additional insured(s) by you.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf.

In the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to “bodily injury” or “property damage” occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of covered operations has been completed; or
2. That portion of “your work” out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

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

SCHEDULE

Name of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

- A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury” or “property damage” caused, in whole or in part, by “your work” at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the “products-completed operations hazard”.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

- B.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable limits of insurance;
- whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS WHEN REQUIRED IN A WRITTEN CONSTRUCTION AGREEMENT WITH YOU

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However the insurance afforded to such additional insured:

1. Only to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person’s or organization’s status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. “Bodily injury”, “property damage” or “personal and advertising injury” arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others, by that insured, if the “occurrence” which caused the “bodily injury” or “property damage”, or the offense which caused the “personal and advertising injury”, involved the rendering of or the failure to render any professional,, architectural, engineering or surveying services.

2. "Bodily injury" or "property damage" occurring after:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of covered operations has been completed; or
- (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS FOR OTHER PARTIES WHEN REQUIRED IN WRITTEN CONSTRUCTION AGREEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured:

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and
2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above.

Such person or organization is an additional insured only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured described in Paragraph 1. or 2. above.

However the insurance afforded to such additional insured:

- a. Only to the extent permitted by law; and
- b. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person’s or organization’s status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. “Bodily injury”, “property damage” or “personal and advertising injury” arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others, by that insured, if the “occurrence” which caused the “bodily injury” or “property damage”, or the offense which caused the “personal and advertising injury”, involved the rendering of or the failure to render any professional, architectural, engineering or surveying services.

2. “Bodily injury” or “property damage” occurring after:
 - b. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of covered operations has been completed; or

b. That portion of “your work” out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement described in Paragraph **A.1.**; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS WHEN REQUIRED IN WRITTEN CONSTRUCTION AGREEMENT WITH YOU (COMPLETED OPERATIONS)

This endorsement modifies insurance provided under the following:

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

- A. Section II – Who Is An Insured** is amended to include as an additional insured any person or organization for whom you have performed operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for “bodily injury” or “property damage” caused, in whole or in part, by “your work” performed for that additional insured and included in the “products-completed operations hazard.”

However the insurance afforded to such additional insured:

1. Only to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

- B.** With respect to the insurance afforded to these additional insureds, the following additional exclusion apply:

This insurance does not apply to:

“Bodily injury” or “property damage” arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others, by that insured, if the “occurrence” which caused the “bodily injury” or “property damage” involved the rendering of or the failure to render any professional, architectural, engineering or surveying services.

- C.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement you have entered into with the additional insured; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – AUTOMATIC STATUS FOR OTHER
PARTIES WHEN REQUIRED IN WRITTEN
CONSTRUCTION AGREEMENT WITH YOU (COMPLETED
OPERATIONS)**

This endorsement modifies insurance provided under the following:

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

A. Section II – Who Is An Insured is amended to include as an additional insured:

1. Any person or organization for whom you have performed operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and
2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above.

Such person(s) or organization(s) is an additional insured only with respect to liability for “bodily injury” or “property damage” caused, in whole or in part, by “your work” performed for the additional insured described in Paragraph 1. or 2. and included in the “products-completed operations hazard.”

However the insurance afforded to such additional insured:

- a. Only to the extent permitted by law; and
- b. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusion apply:

This insurance does not apply to:

“Bodily injury” or “property damage” arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others, by that insured, if the “occurrence” which caused the “bodily injury” or “property damage” involved the rendering of or the failure to render any professional,, architectural, engineering or surveying services.

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement described in Paragraph **A.1.**; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS SUBJECT TO THE GENERAL AGGREGATE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule of this endorsement, but only with respect to liability for:

1. "Bodily injury", "property damage", or "personal and advertising injury" caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) shown and described in the Schedule of this endorsement; or

2. "Bodily injury" or "property damage" caused, in whole or in part, by "your work", other than that described in **A.1.**, at the location(s) shown and described in the Schedule of this endorsement performed for the additional insured(s).

However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
- (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

- B.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – GRANTOR OF LICENSES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Person(s) Or Organization(s)
Information required to complete this Schedule, if not shown above, will be shown in the Declarations

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to their liability as grantor of a license to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – GRANTOR OF LICENSES – AUTOMATIC STATUS WHEN REQUIRED BY LICENSOR

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. Section II – Who Is An Insured** is amended to include as an additional insured any person(s) or organization(s) that grants licenses to you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person(s) or organization(s) be named as an additional insured on your policy. Such person(s) or organization(s) is an insured only with respect to their liability as grantor of licenses to you.

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person(s) or organization(s) status as an additional insured under this endorsement ends when:

1. The license granted to you by such person(s) or organization(s) expires; or

2. Your license is terminated or revoked by such person(s) or organization(s) prior to expiration of the license as stipulated by the contract or agreement.

- B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement you have entered into with the additional insured; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – ENGINEERS, ARCHITECTS OR SURVEYORS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured any architect, engineer or surveyor engaged by you but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In connection with your premises; or
2. In the performance of your ongoing operations.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to “bodily injury”, “property damage” or “personal and advertising injury” arising out of the rendering of or the failure to render any professional services by or for you, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the “occurrence” which caused the “bodily injury” or “property damage”, or the offense which caused the “personal and advertising injury”, involved the rendering of or the failure to render any professional services by or for you.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance**:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – ENGINEERS, ARCHITECTS OR SURVEYORS NOT ENGAGED BY THE NAMED INSURED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Engineers, Architects Or Surveyors Not Engaged By The Named Insured:
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the architects, engineers or surveyors shown in the Schedule, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations performed by you or on your behalf.

Such architects, engineers or surveyors, while not engaged by you, are contractually required to be added as an additional insured to your policy.

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to “bodily injury”, “property damage” or “personal and advertising injury” arising out of the rendering of or the failure to render any professional services, including:

1. The preparing, approving, or failing to prepare or approve, maps, drawings, opinions, reports, surveys, change orders, designs or specifications; and
2. Supervisory, inspection or engineering services.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the “occurrence” which caused the “bodily injury” or “property damage”, or the offense which caused the “personal and advertising injury”, involved the rendering of or the failure to render any professional services by or for you.

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – AUTOMATIC STATUS FOR DESIGNATED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Description Of Operation(s):

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

A. Section II – Who Is An Insured is amended to include as an additional insured any person(s) or organization(s) for whom you have agreed to add under any contract or agreement, but only with respect to liability for:

1. "Bodily injury" or "property damage" not included in the "products-completed operations hazard"; or

2. "Personal and advertising injury";

caused by, in whole or in part, your acts or omissions or the acts or omissions of those acting on your behalf in the performance of your operations as described in the Schedule above.

B. The insurance afforded to such additional insured described in Paragraph **A.** above:

1. Only applies to the extent permitted by law; and

2. Will not be broader than any coverage requirement in a contract or agreement to provide for such additional insured.

C. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional service. This includes but is not limited to:

1. Legal, accounting or advertising services

2. Preparing, approving, or failing to prepare or approve, maps, drawings, opinions, reports, surveys, change orders, designs or specifications;

3. Inspection, supervision, quality control, architectural or engineering activities done by or for you on a project on which you serve as a construction manager;

4. Engineering services, including related supervisory or inspection services;

5. Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;

6. Any health or therapeutic service treatment, advice or instruction;

7. Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement, or personal grooming or therapy;

8. Any service, treatment, advice or instruction relating to physical fitness, including service, treatment, advice or instruction in connection with diet, cardiovascular fitness, bodybuilding or physical training programs;

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

10. Body piercing services;

11. Services in the practice of pharmacy;

12. Law enforcement or firefighting services; and

13. Handling, embalming, disposal, burial, cremation or disinterment of dead bodies.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the “occurrence” which caused the “bodily injury” or “property damage”, or the offense which caused the “personal and advertising injury”, involved the rendering of or the failure to render any professional services by or for you.

- D.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement described in Paragraph **A.** above; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – AUTOMATIC STATUS WHEN REQUIRED IN WRITTEN CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured any person(s) or organization(s) for whom you have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as an addition insured on your policy. Such person(s) or organization(s) is an additional insured only with respect to liability for:

1. “Bodily injury” or “property damage” not included in the “products-completed operations hazard”; or
2. “Personal and advertising injury”;

caused by, in whole or in part, your acts or omissions or the acts or omissions of those acting on your behalf in the performance of your operations.

B. The insurance afforded to such additional insured described in Paragraph **A.** of this endorsement:

1. Only applies to the extent permitted by law; and
2. Will not be broader than any coverage requirement in a contract or agreement to provide for such additional insured.

C. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to “bodily injury”, “property damage” or “personal and advertising injury” arising out of the rendering of or the failure to render any professional service. This includes but is not limited to:

1. Legal, accounting or advertising services
2. Preparing, approving, or failing to prepare or approve, maps, drawings, opinions, reports, surveys, change orders, designs or specifications;

3. Inspection, supervision, quality control, architectural or engineering activities done by or for you on a project on which you serve as a construction manager;
4. Engineering services, including related supervisory or inspection services;
5. Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
6. Any health or therapeutic service treatment, advice or instruction;
7. Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement, or personal grooming or therapy;
8. Any service, treatment, advice or instruction relating to physical fitness, including service, treatment, advice or instruction in connection with diet, cardiovascular fitness, bodybuilding or physical training programs;
9. Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
10. Body piercing services;
11. Services in the practice of pharmacy;
12. Law enforcement or firefighting services; and
13. Handling, embalming, disposal, burial, cremation or disinterment of dead bodies.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the “occurrence” which caused the “bodily injury” or “property damage”, or the offense which caused the “personal and advertising injury”, involved the rendering of or the failure to render any professional services by or for you.

- D. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement described in Paragraph **A.**; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designation Of Premises (Part Leased To You):
Name Of Person(s) Or Organization(s) (Additional Insured):
Additional Premium: \$
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule but only with respect to liability or “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by you or those acting on your behalf in connection with the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:

1. Any “occurrence” which takes place after you cease to be a tenant in that premises.
2. Structural alterations, new construction or demolition operations performed by or on behalf of the person(s) or organization(s) shown in the Schedule.

However:

1. The insurance afforded to such additional insured only to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – LESSOR OF LEASED EQUIPMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Insured Person(s) Or Organization(s):

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

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

However:

1. The insurance afforded to such additional insured only to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any “occurrence” which takes place after the equipment lease expires.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – LESSOR OF LEASED EQUIPMENT – AUTOMATIC STATUS WHEN REQUIRED IN LEASE AGREEMENT WITH YOU

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. Section II – Who Is An Insured** is amended to include as an additional insured any person(s) or organization(s) for whom you lease equipment when you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as an additional insured on your policy. Such person(s) or organization(s) is an insured only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person’s or organization’s status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

- B.** With respect to the insurance afforded to these additional insureds, this insurance does not apply to any “occurrence” which takes place after the equipment lease expires.
- C.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement you have entered into with the additional insured; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – VENDORS

This endorsement modifies insurance provided under the following:

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

SCHEDULE

Name of Additional Insured Person(s) or Organization(s) (Vendor)	Your Products
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured any person(s) or organization(s) (referred to throughout this endorsement as vendor) shown in the Schedule of this endorsement, but only with respect to liability for “bodily injury” or “property damage” arising out of “your products” shown in the Schedule of this endorsement which are distributed or sold in the regular course of the vendor’s business.

However:

1. The insurance afforded to such additional insured only to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these vendors, the following additional exclusions apply:

1. The insurance afforded the vendor does not apply to:
 - a. “Bodily injury” or “property damage” for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - b. Any express warranty unauthorized by you;
 - c. Any physical or chemical change in the product made intentionally by the vendor;
 - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- e. Any failure to make such inspection, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
- h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - 1. The exceptions contained in subparagraphs d. or f.; or

- 2. Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

- 2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

C. With respect to the insurance afforded to these vendors, the following is added to **Section III – Limits of Insurance:**

If coverage provided to the vendor is required by a contract or agreement, the most we will pay on behalf of the vendor is the amount of insurance:

- 1. Required by the contract or agreement; or
- 2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – VENDORS – AUTOMATIC STATUS WHEN REQUIRED IN AGREEMENT

This endorsement modifies insurance provided under the following:

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

- A. Section II – Who Is An Insured** is amended to include as an additional insured any “vendor”, but only with respect to liability for “bodily injury” or “property damage” arising out of “your product” which is distributed or sold in the regular course of the “vendor’s” business.

However, the insurance afforded to such “vendor”:

1. Only to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such “vendor”.

- B.** With respect to the insurance afforded to any “vendor”, the following additional exclusions apply:

1. The insurance afforded the “vendor” does not apply to:
 - a. “Bodily injury” or “property damage” for which the “vendor” is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the “vendor” would have in the absence of the contract or agreement;
 - b. Any express warranty unauthorized by you;
 - c. Any physical or chemical change in the product made intentionally by the “vendor”;
 - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - e. Any failure to make such inspection, adjustments, tests or servicing as the “vendor” has agreed to make or normally undertakes to make in the usual course

of business, in connection with the distribution or sale of the products;

- f. Demonstration, installation, servicing or repair operations, except such operations performed at the “vendor’s” premises in connection with the sale of the product;

- g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the “vendor”; or

- h. “Bodily injury” or “property damage” arising out of the sole negligence of the “vendor” for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

1. The exceptions contained in subparagraphs d. or f.; or

2. Such inspections, adjustments, tests or servicing as the “vendor” has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

- C.** With respect to the insurance afforded to these “vendors”, the following is added to **Section III – Limits of Insurance**:

The most we will pay on behalf of the “vendor” is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

- D. The following definition is added to the **Definitions** section:

“Vendor” means any person or organization who distributes or sells “your product” in the regular course of its business when you have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy.

SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCESS PROVISION - VENDORS

This endorsement modifies insurance provided under the following:

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

When you are added to a manufacturer's or distributor's policy as an additional insured because you are a vendor for such manufacturer's or distributor's products, Paragraph 4., **Other Insurance of Conditions (Section IV)** is amended by the addition of the following:

The coverage afforded the insured under this Coverage Part will be excess over any other valid and collectible insurance available to the insured as an additional insured under a policy issued to a manufacturer or distributor for products manufactured, sold, handled or distributed.

- **Used with a CGL edition date prior to 1998**
- **Added to the retailer's CGL**
- **Not necessary with 1998 and later edition dates**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Insured Person(s) Or Organization(s):

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

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by your acts of omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

I. Additional Insured's reasons to want to be named on the liability policy of another

1. Receive primary insurance protection

4. Other Insurance

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

a. Primary Insurance

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

b. Excess Insurance

(1) This insurance is excess over:

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

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

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

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

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

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

• EXCESS OVER FIRE,
BUILDERS RISK

• FIRE INSURANCE ON
RENTED PREMISES

• LEGAL LIABILITY
COVERAGE FORM

• MAINTENANCE OR
USE OF AIRCRAFT,
WATERCRAFT

• POLICY WHERE YOU
ARE AN ADDITIONAL
INSURED

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

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

The following is added to the **Other** Insurance Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

J. Other insurance

1. Can be categorized as excess, pro rata or escape/nonliability clauses

2. Pro-rata

When both this insurance and other insurance apply to loss on the same basis, the company shall not be liable under this policy for a greater proportion of the loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectible insurance against such loss.

3. Equal shares basis

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or more of the loss remains, whichever comes first.

4. Escape

Provides coverage for the insured "but only if no other valid and collectible insurance, either primary or excess, is available to such person."

5. Excess

Any insurance we provide will be excess over any other collectible insurance, self-insurance, or bond. Any insurance we provide for use of a covered auto by any person other than you will be excess over any other collectible insurance, self-insurance, or bond.

6. Excess over excess

Any insurance we provide shall be excess over any other collectible insurance. Any insurance we provide for use of your covered auto by any person other than you or any family member will be excess over any other collectible insurance, self-insurance or bond stated to be primary, contributing, excess or contingent.

7. Super excess

Any insurance we provide shall be excess after exhaustion of all insurance, whether primary, contributing, excess or contingent.

8. In most states where there are conflicting other-insurance provisions (i.e., both excess) the loss involved is prorated among the insurers involved

Type of Clause In First Policy Being Analyzed							
Type of Clause In Second Policy Being Analyzed	Clause Type	Pro rata	Escape	Not insured if covered under another policy	Excess	Excess over excess	Super Excess
	Pro rata	<i>Pro rata</i>	<i>Pro rata</i> policy is primary	<i>Pro rata</i> policy is primary	<i>Pro rata</i> policy is primary	<i>Pro rata</i> policy is primary	<i>Pro rata</i> policy is primary
	Escape	<i>Pro rata</i> policy is primary	Both policies primary <i>pro rata</i>	Escape policy is primary	Escape policy is primary	Escape policy is primary	Escape policy is primary
	Not insured if covered by other insurance	<i>Pro rata</i> policy is primary	Escape policy is primary	Both policies primary <i>pro rata</i>	Excess is primary	Excess over excess is primary	Super excess is primary
	Excess	<i>Pro rata</i> policy is primary	Escape policy is primary	Excess is primary	Both policies primary <i>pro rata</i>	Both policies primary <i>pro rata</i>	Excess is primary
	Excess over excess	<i>Pro rata</i> policy is primary	Escape policy is primary	Excess over excess is primary	Both policies primary <i>pro rata</i>	Both policies primary <i>pro rata</i>	Excess over excess is primary
	Super excess	<i>Pro rata</i> policy is primary	Escape policy is primary	Super excess is primary	Excess is primary	Excess over excess is primary	Both policies primary <i>pro rata</i>

IV. Trigger of Coverage

A. Policy Language

1. 1966 "Occurrence" definition

"occurrence" means an accident, including injurious exposure to conditions, which results, during the policy period, in **bodily injury** or **property damage** neither expected nor intended from the standpoint of the **insured**;

2. 1973 "Occurrence" definition

- DURING THE policy PERIOD MOVED TO THE DEFINITIONS OF BI & PD

"occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the **insured**;

3. 1973 "Property Damage" definition

"property damage" means (1) physical injury to or destruction of tangible property which occurs during the policy period, including the loss of use thereof at any time resulting therefrom, or (2) loss of use of tangible property which has not been physically injured or destroyed provided such loss of use is caused by an **occurrence** during the policy period.

4. 1986 "Occurrence" definition

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

B. 1986 occurrence trigger from the insuring agreement

- b.** This insurance applies to "bodily injury" and "property damage" only if:
- (2) The "bodily injury" or "property damage" occurs during the policy period; and

C. Trigger Theories

1. Exposure theory

All policy periods during which the property has been exposed to the harm are triggered. This trigger is most frequently found in claims involving long-term bodily injury claims such as asbestos.

Alabama	Louisiana	North Carolina
Alaska	Maryland	Texas
Georgia	Massachusetts	Wisconsin
	Minnesota	

2. Injury-in-fact (actual injury) theory

All policies in effect when injury can in fact be demonstrated are triggered, irrespective of when the property damage is discovered.

California	Kansas	North Carolina
Colorado	Maryland	North Dakota
Connecticut	Michigan	Oregon
Florida	Minnesota	Pennsylvania
Georgia	Missouri	South Carolina
Hawaii	New Jersey	Texas
Illinois	New York	Utah
Indiana		Vermont

3. Manifestation theory

The date of occurrence is when the property damage manifests itself or becomes apparent.

Florida	Massachusetts	Pennsylvania
Louisiana	North Carolina	Rhode Island
Maine	Ohio	Texas

4. Multiple or continuous theory

All policies in effect from the date of exposure through manifestation are triggered. Recently, this theory has been reformulated to state that coverage is provided as long as bodily injury or property damage actually occurs during the policy period. In cases of continuous or progressively deteriorating property damage, all CGL policies in effect during the period of injury or damage have potential liability. This includes all relevant policies from the first exposure to the installation or construction until discovery, or even beyond, so long as damage occurs during these policy periods.

California	Massachusetts	Ohio
Delaware	Minnesota	Pennsylvania
District of Columbia	Mississippi	Texas
Illinois	New Jersey	Washington
Indiana	New York	West Virginia
Kansas		Wisconsin

D. Known Loss or Loss in Progress Theory

1. Application of coverage

- BI OR PD
- CAUSED by AN OCCURRENCE
- COVERAGE TERRITORY
- DURING THE policy PERIOD

b. This insurance applies to "bodily injury" and "property damage" only if:

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

2. Unknown Injury Applicability

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

3. When Insured Has Knowledge

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

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

E. Allocation

1. Joint and several

- a) **Originated in Keene Corp. v Insurance Co. of N. America, 667 F2d 1034 (DC Cir 1982, certiori denied), 455 U.S. 1007, rehearing denied, 456 U.S. 952 (1982)**
- b) **Held that there is no pro-ration**

2. Pro-rata allocation

- c) **Insurance Co. of North America v Forty Eight Insulators, Inc., 633 F2e 1212 (6th Cir 1980)**
- d) **Held that defense and indemnity costs for each underlying claim was allocated to the years that the claimant inhaled asbestos**

3. Actual injury allocation

- e) **American Home Products Corp. v Liberty Mutual Insurance Co., 565 F Supp 1485 (SD NY 1983)**
- f) **Liability under a particular policy is limited to injury or damage that occurs during the policy period**

V. Liquor Liability

A. Revision to the policy exclusion

- Liquor Liability Exclusion

c. Liquor Liability

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

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

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

(a) The supervision, hiring, employment, training, or monitoring of others by that insured; or

(b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol.

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

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

- Host liquor liability COVERAGE

- BYOB COVERAGE

1. "In the business of"
 - a) **Laconia Rod and Gun Club v. Hartford Accident and Indemnity Company, 459 A. 2d 249 (N.H. 1983)**
 - b) **Newell-Blais Post #443, Veterans of Foreign Wars of the United States, Inc., v. The Shelby Mutual Insurance Company, 396 Mass. 633, (1986)**
2. Recent decisions on negligent supervision, failing to arrange transportation
 - a) **Penn-America Insurance Company v. Peccadillos, 27 A.3d 259 (Pa. Super. Ct. 2011)**
 - b) **McGuire v. Curry, 766 N.W.2d 501 (S.D. 2009)**
 - c) **Essex Insurance Company v. Café Dupont, LLC, 674 F. Supp.2d 166 (D.D.C. 2009)**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF LIQUOR LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following replaces Exclusion c. under Paragraph

2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:

2. Exclusions

This insurance does not apply to:

c. Liquor Liability

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

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

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

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

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

This exclusion applies only if you:

- (1) Manufacture, sell or distribute alcoholic beverages;
- (2) Serve or furnish alcoholic beverages for a charge whether or not such activity:
 - (a) Requires a license;
 - (b) Is for the purpose of financial gain or livelihood;
- (3) Serve or furnish alcoholic beverages without a charge, if a license is required for such activity; or
- (4) Permit any person to bring any alcoholic beverages on your premises, for consumption on your premises.

This endorsement not applicable in MA, NJ, TX and WA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF LIQUOR LIABILITY EXCLUSION – LIMITED EXCEPTION FOR BRING YOUR OWN ALCOHOL

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following replaces Exclusion **c.** under Paragraph **2. Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability**:

This insurance does not apply to:

c. Liquor Liability

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

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

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

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

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

This exclusion applies only if you:

- (1) Manufacture, sell or distribute alcoholic beverages;
- (2) Serve or furnish alcoholic beverages for a charge whether or not such activity:
 - (a) Requires a license;
 - (b) Is for the purpose of financial gain or livelihood; or
- (3) Serve or furnish alcoholic beverages without a charge, if a license is required for such activity.

For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered selling, serving or furnishing alcoholic beverages.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF LIQUOR LIABILITY EXCLUSION – EXCEPTION FOR SCHEDULED PREMISES OR ACTIVITIES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Description Of Premises Or Activities:

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

The following replaces Exclusion c. under Paragraph

2. Exclusions of **Section I – Coverage A – Bodily Injury And Property Damage Liability:**

2. Exclusions

This insurance does not apply to:

c. **Liquor Liability**

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

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

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

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

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

This exclusion applies only if you:

- (1) Manufacture, sell or distribute alcoholic beverages;
- (2) Serve or furnish alcoholic beverages for a charge whether or not such activity:
 - (a) Requires a license;
 - (b) Is for the purpose of financial gain or livelihood;
- (3) Serve or furnish alcoholic beverages without a charge, if a license is required for such activity; or
- (4) Permit any person to bring any alcoholic beverages on your premises, for consumption on your premises.

However, this exclusion does not apply to “bodily injury” or “property damage” arising out of:

- (i) The selling, serving or furnishing of alcoholic beverages at the specified activity described in the Schedule; or
- (ii) Permitting any person to bring any alcoholic beverages on the premises described in the Schedule, for consumption on the premises described in the Schedule.

B. Liquor Liability – CG 24 08

- All OTHER policy exclusions apply

Exclusion c. of COVERAGE A (Section I) does not apply.

C. Liquor Liability Coverage Part

1. Two versions available

a) Occurrence Form – CG 00 33

b) Claims Made Form – CG 00 34

2. Insuring Agreement

- INJURY by REASON of

- ① SELLING
- ② SERVING
- ③ FURNISHING

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "injury" to which this insurance applies if liability for such "injury" is imposed on the insured by reason of the selling, serving or furnishing of any alcoholic beverage. We will have the right and duty to defend the insured against any "suit" seeking these damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "injury" to which this insurance does not apply. We may at our discretion investigate any "injury" and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in LIMITS OF INSURANCE (SECTION III); and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided under SUPPLEMENTARY PAYMENTS.

- b. This insurance applies to "injury" which occurs during the policy period in the "coverage territory."

- OCCURRENCE FORM

3. "Injury" Defined

- All DAMAGES

5. "Injury" means damages because of "bodily injury" and "property damage," and including damages for care, loss of services or loss of support.

4. Exclusions

a) Expected or Intended Injuries

- SAME AS CGL

a. Expected or Intended Injury

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

b) Workers Compensation

- SAME AS CGL

b. Workers Compensation and Similar Laws

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

c) Injury to Employees

- DOES NOT HAVE THE CONTRACTUAL EXCEPTION THAT THE CGL HAS

c. Employer's Liability

Bodily injury" to:

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

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

d) License Suspension

- EXCLUDES VENDORS OPERATING OUTSIDE OF THE LAW

d. Liquor License Not in Effect

"Injury" arising out of any alcoholic beverage sold, served or furnished while any required license is not in effect.

e) Products Liability

- PRODUCTS CLAIMS ARE A CGL COVERAGE
- CONTAMINANT IN A DRINK
- EXCLUSION DOES NOT APPLY TO OFF PREMISES LOSSES
- AUTO ACCIDENT DUE TO INTOXICATION

e. Your Product

"Injury" arising out of "your product." This exclusion does not apply to "injury" for which the insured or the insured's indemnities may be held liable by reason of:

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

f) Other Insurance

- BOTH THE CGL AND LIQUOR LIABILITY ARE PRIMARY
- CONTRIBUTION BY EQUAL SHARES IF ANOTHER LIQUOR LIABILITY POLICY

f. Other Insurance

Any "injury" with respect to which other insurance is afforded, or would be afforded but for the exhaustion of the limits of insurance.

This exclusion does not apply if the other insurance responds to liability for "injury" imposed on the insured by reason of the selling, serving or furnishing of any alcoholic beverage.

5. Limits of Insurance

a) Aggregate Limit

- PER POLICY YEAR

2. The Aggregate Limit is the most we will pay for all "injury" as the result of the selling, serving or furnishing of alcoholic beverages.

b) Each Common Cause Limit

- PER DRUNK LIMIT, REGARDLESS OF NUMBER OF PERSONS OR PROPERTIES INJURED

3. Subject to the Aggregate Limit, the Each Common Cause Limit is the most we will pay for all "injury" sustained by one or more persons or organizations as the result of the selling, serving or furnishing of any alcoholic beverage to any one person.

VI. History of the CGL, Auto, Aircraft and Watercraft Exclusion

A. Insertion of non-owned coverage in 1955

- Exclusion applies TO ANY INSURED

g. Aircraft, Auto or Watercraft

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

B. Impact on claims handling

VII. Commercial Auto Insurance

A. You

- DIRECT AND VICARIOUS

a. You for any covered "auto."

B. Extent of permission

- WITH permission, **EXCEPT**
- OWNER OF A HIRED OR BORROWED CAR
- YOUR EMPLOYEE IN PERSONAL CAR
- GARAGE, UNLESS ITS YOURS
- WHILE HELPING UNLOAD
- PARTNER IN PERSONAL CAR

b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:

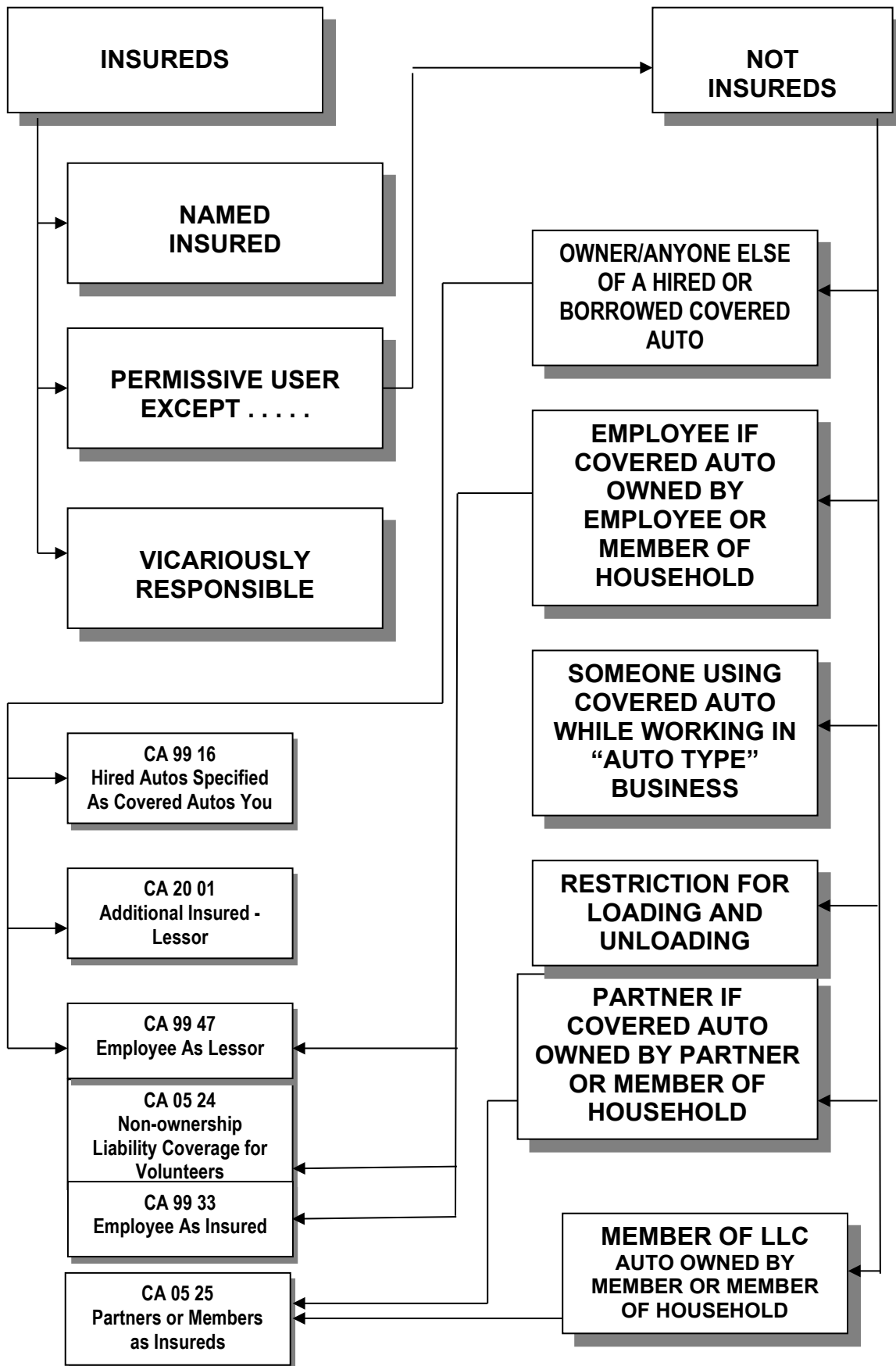
- (1) The owner or anyone else from whom you hire or borrow a covered "auto." This exclusion does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.
- (2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.
- (3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking, or storing "autos" unless that business is yours.
- (4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company) or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto."
- (5) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.

C. Anyone liable for the conduct of the insured

- RESPONSIBLE FOR THE CONDUCT

c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

BAP – WHO IS AN INSURED



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are “insureds” for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:

Endorsement Effective Date:

SCHEDULE

Name of Person(s) or Organization(s):

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

Each person or organization shown in the schedule is an “insured” for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an “insured” under the Who Is An Insured provision contained in Paragraph A.1. of Section II – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph D.2. of Section I – Covered Auto Coverages of the Auto Dealers Coverage Form.

- **Reaffirms the application of the omnibus clause with respect to the party designated in the endorsement’s schedule**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

HIRED AUTOS SPECIFIED AS COVERED AUTOS YOU OWN

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:

Endorsement Effective Date:

SCHEDULE

Description Of Auto:

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

A. Any "auto" described in the Schedule will be considered a covered "auto" you own and not a covered "auto" you hire, borrow or lease.

B. Changes In Covered Autos Liability Coverage

The following is added to the **Who Is An** Insured provision:

While any covered "auto" described in the Schedule is rented or leased to you and is being used by or for you, its owner or anyone else from whom you rent or lease it is an "insured" but only for that covered "auto".

- **No premium charge**
- **Coverage is primary because the hired auto is treated as an owned auto**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYEE AS LESSOR

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:

Endorsement Effective Date:

SCHEDULE

Description Of "Auto":

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

A. Any "auto" described in the Schedule will be considered a covered "auto" you own and not a covered "auto" you hire, borrow or lease.

B. While any covered "auto" described in the Schedule is leased to you by one of your "employees", the **Who Is An Insured** provision under **Covered Autos Liability Coverage** is changed to include that "employee" as an "insured".

- **Employees become insureds while their auto is leased to the named insured**
- **No premium charge**
- **Coverage is primary because employee's auto treated as an owned auto**

POLICY NUMBER:

COMMERCIAL AUTO

CA 20 01 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LESSOR – ADDITIONAL INSURED AND LOSS PAYEE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:
Endorsement Effective Date:

SCHEDULE

Insurance Company:	
Policy Number:	Effective Date:
Expiration Date:	
Named Insured:	
Address:	
Additional Insured (Lessor):	
Address:	
Designation or Description of "Leased Autos"	

Coverages	Limit Of Insurance
Covered Autos Liability	\$ Each Accident
Comprehensive	Actual Cash Value Or Cost Of Repair Whichever Is Less; Minus \$ Deductible For Each Covered "Leased Auto"
Collision	Actual Cash Value Or Cost Of Repair Whichever Is Less; Minus \$ Deductible For Each Covered "Leased Auto"
Specified Causes of Loss	Actual Cash Value Or Cost Of Repair Whichever Is Less; Minus \$ Deductible For Each Covered "Leased Auto"

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

A. Coverage

1. Any "leased auto" designated or described in the Schedule will be considered a covered "auto" you own and not a covered "auto" you hire or borrow.
2. For a "leased auto" designated or described in the Schedule, the **Who Is An Insured** provision under **Covered Autos Liability Coverage** is changed to include as an "insured" the lessor named in the Schedule. However, the lessor is an "insured" only for "bodily injury" or "property damage" resulting from the acts or omissions by:
 - a. You;
 - b. Any of your "employees" or agents; or
 - c. Any person, except the lessor or any "employee" or agent of the lessor, operating a "leased auto" with the permission of any of the above.
3. The coverages provided under this endorsement apply to any "leased auto" described in the Schedule, or when the lessor or his or her agent takes possession of the "leased auto", whichever occurs first.

B. Loss Payable Clause

1. We will pay, as interest may appear, you and the lessor named in this endorsement for "loss" to a "leased auto".
2. The insurance covers the interest of the lessor unless the "loss" results from fraudulent acts or omissions on your part.
3. If we make any payment to the lessor, we will obtain his or her rights against any other party.

C. Cancellation

1. If we cancel the policy, we will mail notice to the lessor in accordance with the Cancellation Common Policy Condition.
2. If you cancel the policy, we will mail notice to the lessor.
3. Cancellation ends this agreement.

- D. The lessor is not liable for payment of your premiums.

E. Additional Definition

As used in this endorsement:

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.

- Adds the owner of the leased or rented auto as an insured
- Excludes sole negligence of the owner
- Lease must require lessee to provide direct primary coverage for the lessor
- Otherwise, it does not meet the definition of "leased auto"
- Coverage is primary because the auto is treated as an owned auto

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INDIVIDUAL NAMED INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

If you are an individual, the policy is changed as follows:

A. Changes In Covered Autos Liability Coverage

1. The Fellow Employee Exclusion does not apply to "bodily injury" to your or any "family member's" fellow employees.

2. Personal Auto Coverage

If any "auto" you own of the "private passenger type" is a covered "auto" under **Covered Autos Liability Coverage**:

- a. The following is added to the **Who Is An Insured** provision:

"Family members" are "insureds" for any covered "auto" you own of the "private passenger type" and any other "auto" described in Paragraph 2.b. of this endorsement.

- b. Any "auto" you don't own is a covered "auto" while being used by you or by any "family member" except:

- (1) Any "auto" owned by any "family members".
- (2) Any "auto" furnished or available for your or any "family member's" regular use.
- (3) Any "auto" used by you or by any of your "family members" while working in a business of selling, servicing, repairing or parking "autos".
- (4) Any "auto" other than an "auto" of the "private passenger type", used by you or any of your "family members" while working in any other business or occupation.

- c. The Pollution Exclusion and, if forming a part of the policy, the Nuclear Energy Liability Exclusion (Broad Form) do not apply to any covered "auto" of the "private passenger type".

- d. The following exclusion is added and applies only to "private passenger type" covered "autos":

This insurance does not apply to:

"Bodily injury" or "property damage" for which an "insured" under the policy is also an "insured" under a nuclear energy liability policy or would be an "insured" but for its termination upon its exhaustion of its limit of liability. A nuclear energy liability policy is a policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or any of their successors. This exclusion does not apply to "autos" registered or principally garaged in New York.

B. Changes In Physical Damage

Personal Auto Coverage

If any "auto" you own of the "private passenger type" is a covered "auto" under Physical Damage Coverage, a "non-owned auto" will also be considered a covered "auto". However, the most we will pay for "loss" to a "non-owned auto" which is a "trailer" is \$500.

C. Additional Definitions

As used in this endorsement:

1. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household including a ward or foster child.
2. The words "you" and "your" include your spouse if a resident of the same household except for notice of cancellation.
3. When the phrase "private passenger type" appears in quotation marks it includes any covered "auto" you own of the pick-up or van type not used for business purposes, other than farming or ranching.
4. "Non-owned auto" means any "private passenger type" "auto", pick-up, van or "trailer" not owned by or furnished or available for the regular use of you or any "family member", while it is in the custody of or being operated by you or any "family member".

- **Used when the named insured does not have a Personal Auto Policy**
- **Mandatory if the named insured is an individual who owns a private passenger auto**
- **If *liability* coverage is provided on a "private passenger type" vehicle, extends non-owned, hired and borrowed liability to the named Insured and "family members"**
- **If *physical damage* is provided on a "private passenger type" vehicle, extends the physical damage coverage to "non-owned autos"**
- **Eliminates the fellow employee exclusion for the named Insured and "family members"**
- **No premium charge for this endorsement**
- **Coverage is excess**

POLICY NUMBER:

COMMERCIAL AUTO

CA 99 10 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DRIVE OTHER CAR COVERAGE – BROADENED COVERAGE FOR NAMED INDIVIDUALS

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:

Endorsement Effective Date:

SCHEDULE

Name Of Individual:			
Covered Autos Liability Coverage	Limit:	\$	Premium: \$
Auto Medical Payments	Limit:	\$	Premium: \$
Comprehensive	Deductible:	\$	Premium: \$
Collision	Deductible:	\$	Premium: \$
Uninsured Motorists	Limit:	\$	Premium: \$
Underinsured Motorists	Limit:	\$	Premium: \$
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.			

Note – When uninsured motorists is provided at limits higher than the basic limits required by a financial responsibility law, underinsured motorists is included, unless otherwise noted. If underinsured motorists coverage is provided as a separate coverage, make appropriate entry in the Schedule above.

A. This endorsement changes only those coverages where a premium is shown in the Schedules.

B. Changes In Covered Autos Liability Coverage

1. Any "auto" you don't own, hire or borrow is a covered "auto" while being used by any individual named in the Schedule or by his or her spouse while a resident of the same household except:

- a. Any "auto" owned by that individual or by any member of his or her household.
- b. Any "auto" used by that individual or his or her spouse while working in a business of selling, servicing, repairing or parking "autos".

2. The following is added to **Who Is An Insured**:

Any individual named in the Schedule and his or her spouse, while a resident of the same household, are "insureds" while using any covered "auto" described in Paragraph B.1. of this endorsement.

C. Changes In Auto Medical Payments And Uninsured And Underinsured Motorists Coverages

The following is added to **Who Is An Insured**:

Any individual named in the Schedule and his or her "family members" are "insured" while "occupying" or while a pedestrian when being struck by any "auto" you don't own except:

Any "auto" owned by that individual or by any "family member".

D. Changes In Physical Damage Coverage

Any private passenger type "auto" you don't own, hire or borrow is a covered "auto" while in the care, custody or control of any individual named in the Schedule or his or her spouse while a resident of the same household except:

1. Any "auto" owned by that individual or by any member of his or her household.
2. Any "auto" used by that individual or his or her spouse while working in a business of selling, servicing, repairing or parking "autos".

E. Additional Definition

As used in this endorsement:

"Family member" means a person related to the individual named in the Schedule by blood, marriage or adoption who is a resident of the individual's household, including a ward or foster child.

- **Individuals named in the endorsement and their spouses become insureds**
- **While using an auto the insured or members of the insured's household hire, borrow or they do not own**
- **Premium charge for this endorsement**
- **Coverage is excess**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYEES AS INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

The following is added to the **Section II – Covered Autos Liability Coverage**, Paragraph **A.1. Who Is An Insured** provision:

Any “employee” of yours is an “insured” while using a covered “auto” you don’t own, hire or borrow in your business or your personal affairs.

- NAMED INSURED
MUST OWN, HIRE
OR BORROW AUTO

- b. Anyone else while using with your permission a covered “auto” you own, hire or borrow except:
- (1) The owner or anyone else from whom you hire or borrow a covered “auto.” This exclusion does not apply if the covered “auto” is a “trailer” connected to a covered “auto” you own.
 - (2) Your “employee” if the covered “auto” is owned by that “employee” or a member of his or her household.
 - (3) Someone using a covered “auto” while he or she is working in a business of selling, servicing, repairing, parking, or storing “autos” unless that business is yours.
 - (4) Anyone other than your “employees”, partners (if you are a partnership), members (if you are a limited liability company) or a lessee or borrower or any of their “employees”, while moving property to or from a covered “auto.”
 - (5) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered “auto” owned by him or her or a member of his or her household.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYEE HIRED AUTOS

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. Changes In Covered Autos Liability Coverage

The following is added to the **Who Is An Insured** Provision:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

B. Changes In General Conditions

Paragraph **5.b.** of the **Other Insurance** Condition in the Business Auto and Auto Dealers Coverage Forms and Paragraph **5.f.** of the **Other Insurance – Primary And Excess Insurance Provisions Condition** in the Motor Carrier Coverage Form are replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

1. Any covered "auto" you lease, hire, rent or borrow; and

- **Makes the employee (and fellow employees for that rental) an insured when they rent cars for business in their personal name**
- **Must arise from duties relating to the conduct of employer's business**
- **Primary coverage for Hired Physical Damage**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NON-OWNERSHIP LIABILITY COVERAGE FOR VOLUNTEERS

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the Policy effective on the inception date of the Policy unless another date is indicated below.

Named Insured:

Endorsement Effective Date:

SCHEDULE

Description Of Covered Volunteer Activity(ies):

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

A. Changes In Covered Autos Liability Coverage

1. The following is added to the **Who Is An Insured**:

Any "volunteer" is an "insured" while he or she is:

- a. Engaged in the specified activity(ies) described in the Schedule; or
- b. Acting on your behalf, if no activity is described in the Schedule;

And using a covered "auto" you don't own, hire or borrow. Anyone else who furnishes that "auto" to a "volunteer" is also an "insured", but only to the extent of liability arising out of the activities described in preceding paragraphs a. and b.

2. The following exclusion is added:

This insurance does not apply to:

Volunteer Injury

"Bodily injury" to:

- a. Any "volunteer" or any fellow "volunteer" of the "insured", if sustained while such "volunteer" is:
 - (1) Engaged in the specified activity(ies) described in the Schedule; or
 - (2) Acting on your behalf, if no activity is described in the Schedule.
- b. The spouse, child, parent, brother or sister of that "volunteer" as a consequence of Paragraph 2.a.

B. Additional Definitions

As used in this endorsement:

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

SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PARTNERS OR MEMBERS AS INSURED

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

The **Who Is An Insured** provision under Paragraph **A.1. of Section II – Covered Autos Liability Coverage** in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2. of Section I – Covered Autos Coverages** of the Auto Dealers Coverage form is amended to include as an “insured” a partner (if you are a partnership) or a member (if you are a limited liability company) while using a covered “auto” owned by him or her or a member of his or her household in your business affairs.

- b.** Anyone else while using with your permission a covered “auto” you own, hire or borrow except:
- (1)** The owner or anyone else from whom you hire or borrow a covered “auto.” This exclusion does not apply if the covered “auto” is a “trailer” connected to a covered “auto” you own.
 - (2)** Your “employee” if the covered “auto” is owned by that “employee” or a member of his or her household.
 - (3)** Someone using a covered “auto” while he or she is working in a business of selling, servicing, repairing, parking, or storing “autos” unless that business is yours.
 - (4)** Anyone other than your “employees”, partners (if you are a partnership), members (if you are a limited liability company) or a lessee or borrower or any of their “employees”, while moving property to or from a covered “auto.”
 - (5)** A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered “auto” owned by him or her or a member of his or her household.

- PARTNERS AND MEMBERS EXCLUSION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LOSS PAYABLE CLAUSE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

- A.** We will pay, as interest may appear, you and the loss payee named in the policy for "loss" to a covered "auto".
- B.** The insurance covers the interest of the loss payee unless the "loss" results from conversion, secretion or embezzlement on your part.
- C.** We may cancel the policy as allowed by the Cancellation Common Policy Condition.
- D.** If we make any payments to the loss payee, we will obtain his or her rights against any other party.
- Cancellation ends this agreement as to the loss payee's interest. If we cancel the policy, we will mail you and the loss payee the same advance notice.

- **Physical damage does not have a definition of insured**
- **By inference, it is the named insured**
- **Use when the owner is other than the named insured**

D. Bodily injury to fellow employee of the insured

- MANY STATES allow this type of suit

5. Fellow Employee

- Any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business.
- The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph **a.** above.

States that Permit Fellow Employee Bodily Injury Suits Exclusive of Gross Negligence or Intentional Acts

Alabama	New Hampshire
Arkansas	Rhode Island
Maryland	South Dakota
Minnesota	Vermont
Missouri	

Source: *Larson's Workers Compensation Desk Edition*

States that Permit Fellow Employee Bodily Injury Suits For Intentional Injury

Alabama	Iowa	New Jersey
Arizona	Kentucky	Oregon
Arkansas	Louisiana	South Dakota
California	Minnesota	Vermont
Connecticut	Mississippi	West Virginia
Florida	Montana	Wisconsin
Hawaii	Nebraska	Wyoming
Idaho	New Hampshire	

- ♦ Extended Non-Ownership Liability For Named Individuals • PP 03 06

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FELLOW EMPLOYEE COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

The **Fellow Employee** Exclusion contained under the **Covered Autos Liability Coverage** does not apply.

SAMPLE

POLICY NUMBER:

COMMERCIAL AUTO

CA 20 56 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FELLOW EMPLOYEE COVERAGE FOR DESIGNATED EMPLOYEES/POSITIONS

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:

Endorsement Effective Date:

SCHEDULE

Name of Person(s), Job Title(s) or Position(s):

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

The **Fellow Employee** Exclusion contained under the **Covered Autos Liability Coverage** does not apply to the "employee(s)", job title(s) or position(s) named or listed in the Schedule.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:

Endorsement Effective Date:

SCHEDULE

Name(s) Of Person(s) Or Organization(s):

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

The **Transfer Of Rights Of Recovery Against Other To Us** Condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

VIII. Umbrella and excess liability insurance

A. *Types of Excess Liability Policies*

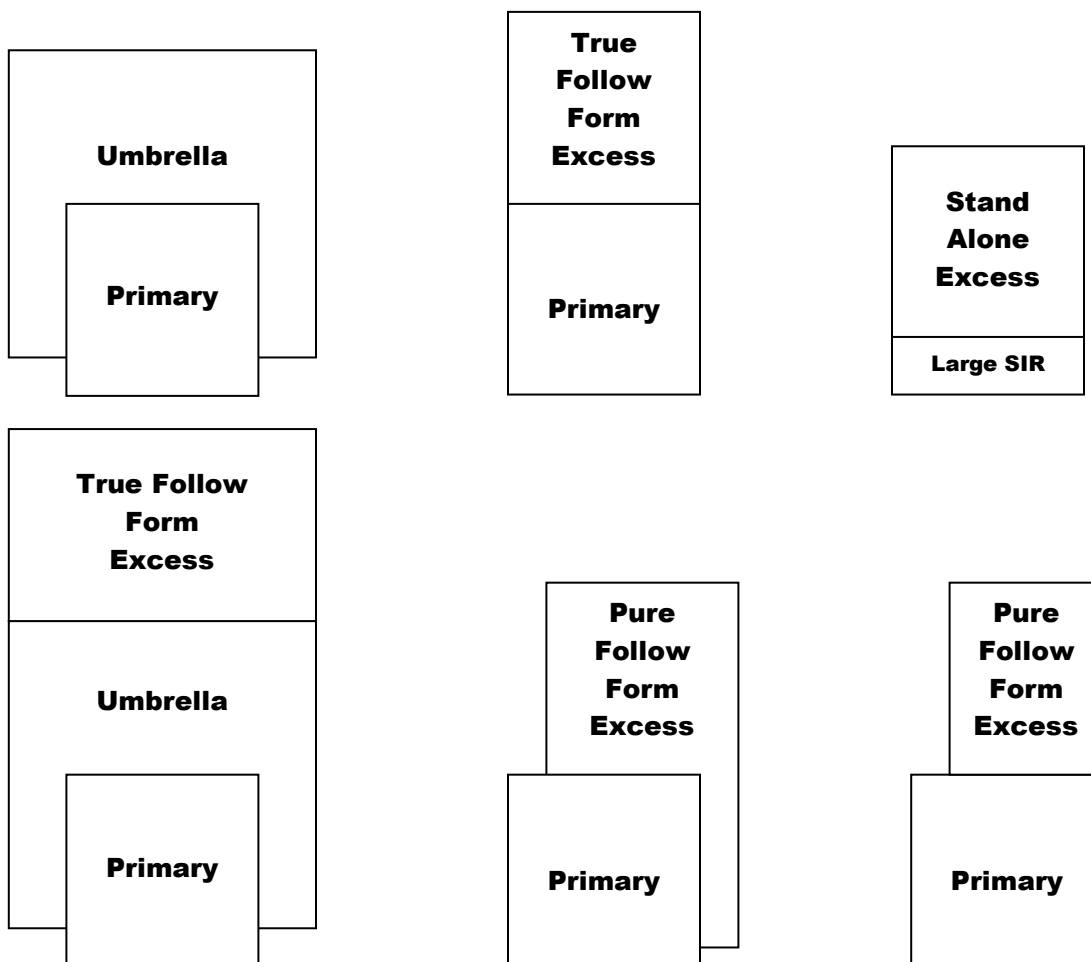
1. "True" Umbrella
 - a) **Additional/higher limits of liability protection**
 - b) **Covers everything underlying policies cover**
 - c) **Affords broader coverage for exposures not covered by underlying policies**
 - d) **Drop down provision - automatic replacement coverage for underlying liability policies which are exhausted by a loss**
 - (1) When underlying policy limits (aggregates) are reduced
 - (2) When underlying policy limits (aggregates) are exhausted
 - e) **"Non-standard" forms of coverage**
 - (1) Concepts are the same
 - (2) Each must be analyzed
2. Follow Form Excess
 - a) **Provide additional limits of liability**
 - b) **Provides *only* additional layer of protection on specific exposures selected**
 - c) **Only comes into play when payment has been made under primary layer**
 - d) **True versus pure follow form**
 - (1) "True Follow Form" means that every term and condition of the primary is incorporated into the excess policy – no exceptions

The coverage provisions of the scheduled 'Underlying Policies' are incorporated as part of this policy.

 - (2) "Pure Follow Form" means most, if not all, of the coverages in the underlying form are adopted but there may be variances in certain terms and/or conditions

Except insofar as coverage is available in underlying policies this policy does not cover . . ."
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EXCESS AND UMBRELLA COVERAGE ILLUSTRATION



B. Drop-down Feature

1. When underlying aggregate limits are exhausted through the payment of loss(es), the umbrella becomes the primary insurance for defense, indemnity and related expenses

2. May “drop-down” on terms of primary, terms of umbrella or may be ambiguous

a) Underlying terms and conditions

- ADVANTAGEOUS if UNDERLYING INSURANCE HAS BROAD TERMS AND CONDITIONS

In the event of the reduction or exhaustion of an aggregate limit(s) of liability of the underlying policy(ies) listed in the Schedule of Underlying Insurance by reason of losses paid thereunder, this policy:

- (1) in the event of reduction, shall pay the “ultimate net loss” in excess of the reduced underlying limit; or
- (2) in the event of exhaustion, shall continue in force as underlying insurance and except for the limits of liability of this policy, shall be subject to all the other terms and conditions of the exhausted underlying policy.

b) Umbrella terms and conditions

- ADVANTAGEOUS if UMBRELLA INSURANCE HAS BROAD TERMS AND CONDITIONS

In the event of the reduction or exhaustion of an aggregate limit(s) of liability of the underlying policy(ies) listed in the Schedule of Underlying Insurance by reason of losses paid thereunder, this policy is subject to its Insuring Agreements, Definitions, Exclusions, Conditions and other terms shall:

- (1) in the event of reduction, shall pay the “ultimate net loss” in excess of the reduced underlying limit; or
- (2) in the event of exhaustion, shall continue in force as underlying insurance.

c) Ambiguous

- AMBIGUOUS AS TO WHICH TERMS AND CONDITIONS APPLY

In the event of the reduction or exhaustion of an aggregate limit(s) of liability of the underlying policy(ies) listed in the Schedule of Underlying Insurance by reason of losses paid thereunder, this policy:

- (1) in the event of reduction, shall pay the “ultimate net loss” in excess of the reduced underlying limit; or
- (2) in the event of exhaustion, shall continue in force as underlying insurance.

3. Ultimate net loss

- a) **Determines specifically the expenses or types of payments which the policy covers or excludes within the limits of liability stated in the policy declarations**
- b) **Some policies use loss, damages, net final payment**
- c) **Some policies use ultimate net loss and then use another defined term such as “Damages” in the definition of ultimate net loss**

- “DEFENSE COSTS” ARE INCLUDED IN DEFINITION AND MAY BE INCLUDED WITHIN LIMITS OF LIABILITY

Ultimate Net Loss means the total sum which the Insured shall become obligated to pay as Damages and/or Defense Expenses on account of Personal Injury, Property Damage or Advertising Offense, either by final judgment against the Insured after trial or by settlement approved in writing by the Company after making proper deduction for all recoveries and salvages collectible.

DEFENSE COSTS	DAMAGES
ULTIMATE NET LOSS	

- “DEFENSE COSTS” ARE NOT INCLUDED IN DEFINITION AND WILL NOT ORDINARILY BE INCLUDED WITHIN LIMITS OF LIABILITY

Ultimate Net Loss means the total amount for which the insured is found liable for a covered “incident” either by adjudication or settlement to which we agree in writing including deduction for recoveries and salvages which have or will be paid. However, it does not include all of the expenses incurred by the insured or us or any Underlying Insurance carrier in connection with defending the “incident”, claim or suit.

DEFENSE COSTS	DAMAGES
	ULTIMATE NET LOSS

- d) **Ultimate net loss definition may include other supplementary payments as well (i.e., bond premiums, accrued interest, lost wages, etc.)**
- e) **In addition to the definition of ultimate net loss, the defense clauses and limits section should be reviewed; when defense costs are paid in addition to the limits of liability, they should not be included in the definition of ultimate net loss to avoid confusion**

4. Retained amounts

- a) **Coverage provided will not attach until some specified amount has been met by the insured**

- RETAINED LIMIT APPLIES TO CLAIMS AND/OR DEFENSE COSTS INCLUDED AS UNDERLYING INSURANCE OR SUBJECT TO SIR

“Retained Limit” is the sum stated in the Declarations as such. If the policies of “underlying insurance” do not apply to the “occurrence” or “offense” covered by this insurance, the insured shall retain the amount stated as a Self Insured Retention with respect to:

- a. “Bodily injury” or “property damage” caused by an “occurrence”; or
- b. “Personal injury” or “advertising injury” sustained by any one person or organization and caused by an “offense”.

b) In the next example, the retained amount must be met by indemnity payments

- Any payments within the retained amount paid for defense and investigation costs do not apply toward meeting the retained amount
- Potential coverage gap exists if defense costs are included with policy limits of underlying policy
- SIR applies per occurrence or offense; in some cases, per policy year

"Retained Limit" is the sum stated in the Declarations as such. If the policies of "underlying insurance" do not apply to the "occurrence" or "offense" covered by this insurance, the insured shall retain the amount stated as a Self Insured Retention with respect to:

- a. "Bodily injury" or "property damage" caused by an "occurrence"; or
- b. "Personal injury" or "advertising injury" sustained by any one person or organization and caused by an "offense".

These "retained limits" shall only comprise indemnity payments. The named insured shall bear all legal costs and expenses incurred until such time as the "retained limits" are exhausted by indemnity payments.

c) In the next example, the retained amount must be met by claims covered under this policy

- Any payments within the retained amount paid for defense and investigation costs as well as claims covered by underlying but not this insurance do not apply toward meeting the retained amount

"Retained Limit" is the sum stated in the Declarations as such. If the policies of "underlying insurance" do not apply to the "occurrence" or "offense" covered by this insurance, the insured shall retain the amount stated as a Self Insured Retention with respect to:

- a. "Bodily injury" or "property damage" caused by an "occurrence"; or
- b. "Personal injury" or "advertising injury" sustained by any one person or organization and caused by an "offense".

These "retained limits" shall only be reduced or exhausted by payment of "claims" that would be insured by this policy. The named insured shall bear all legal costs and expenses incurred until such time as the retained amounts are exhausted by payment of "claims" that would be insured by this policy.

- Potential coverage gap exists if defense costs are included within policy limits by any underlying policy
- Potential coverage gap exists if any claims are provided coverage by underlying but not this policy
- Again, SIR applies per occurrence of offense

C. **Broad form named insured provisions**

	(1) "Named Insured" means the person or organization stated in the Declarations and
• NOT IN CGL	a. any of your <u>subsidiary companies</u> , or any of their subsidiary companies, or any company over which you exercise control or actively manage;
	b. any organization you <u>newly acquire</u> or form during the policy period if:
• Did CGL REQUIRE WRITTEN NOTIFICATION?	1. <u>Written notice</u> is given to the company within <u>90 days</u> after you acquire or form the organization; and
	2. the new organization is included in the underlying policies warranted on Schedule A of this policy; and
	3. this policy is endorsed to include the new organization.
• SAME AS CGL	c. if you are an <u>individual</u> , you and your spouse, but only with respect to the conduct of the business of which you are sole owner, and the ownership or use of an automobile;
• SAME AS CGL	d. if you are a partnership or a joint venture, the <u>partners or members and their spouses</u> , but only with respect to their conduct of your business.
	(2) "Insured" means the "Named Insured" and
• If WRITTEN CONTRACT REQUIRES	a. any person, organization, trustee or estate that has <u>obligated you by written contract</u> to provide the insurance that is afforded by this policy; but only with respect to duties performed by or for you, or to facilities owned or used by you;
• ADDITIONAL INSUREDs	b. <u>at your option</u> and subject to the terms of this policy, <u>any additional "insured"</u> included in the underlying policies, other than the "named insured," but the limit of insurance available to that additional "insured" shall be the lesser of:
	1. that amount of coverage which the "named insured" has contractually agreed to provide to that additional insured, or
	2. the limits of insurance available under this policy.

Who is an Insured continued

- SAME AS CGL
- DIFFERENT FROM CGL
- DIFFERENT FROM BAP

- c. your executive officers, directors and stockholders, but only within the scope of their duties as such;
- d. at your option and subject to the terms of this policy, any of your employees while within the scope of their employment by you except for:
 1. "Bodily Injury" or "Property Damage" arising out of the use of an automobile, other than the one owned by, loaned to, or hired by you; or
 2. "Bodily Injury" or "Personal Injury" to you or to a co-employee while in the course of his or her employment.
- e. at your option and subject to the terms of this policy, any person who has your permission to use an automobile owned by or loaned to you or hired for use by you, and any person or organization legally responsible for the use of that automobile.

NONCONCURRENCY OF LIMITS OF LIABILITY PROVISIONS

<p>* \$5 MM 1st EXCESS</p> <table border="1"> <tr> <td>General Aggregate</td> <td>P/CO Aggregate</td> <td>Auto Liability (no aggregate)</td> </tr> </table>	General Aggregate	P/CO Aggregate	Auto Liability (no aggregate)	<p>* \$5 MM 1st EXCESS</p> <table border="1"> <tr> <td>General Aggregate</td> <td>P/CO Aggregate</td> <td>Auto Liability (no aggregate)</td> </tr> <tr> <td></td> <td>Pays \$2 MM</td> <td>\$3 MM Remains</td> </tr> </table>	General Aggregate	P/CO Aggregate	Auto Liability (no aggregate)		Pays \$2 MM	\$3 MM Remains	<p>* \$5 MM 1st EXCESS</p> <table border="1"> <tr> <td>General Aggregate</td> <td>P/CO Aggregate</td> <td>Auto Liability (no aggregate)</td> </tr> <tr> <td>Pays \$0</td> <td>\$3 MM Remains</td> <td></td> </tr> </table>	General Aggregate	P/CO Aggregate	Auto Liability (no aggregate)	Pays \$0	\$3 MM Remains	
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* Attachment /drop down provision only applies when retention has been met by claims which affect that particular aggregate.

NONCONCURRENCY OF LIMITS OF LIABILITY PROVISIONS

<p>* \$5 MM 1st EXCESS</p> <p>Combined Single Limit Aggregate</p> <p>Pays \$0 Already Exhausted</p>	<p>* \$5 MM 1st EXCESS</p> <p>Combined Single Limit Aggregate</p> <p>Pays \$5 MM</p>	<p>* \$5 MM 1st EXCESS</p> <p>Combined Single Limit Aggregate</p> <p>Pays \$0 Already Exhausted</p>									
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* Does not follow underlying aggregates; CSL aggregate limit only

G. Problems

1. Occurrence over claims made
2. Claims made over occurrence

H. Solutions

1. Avoid
2. If can not be avoided:
 - a) Try to confine “claims made” policies to the upper layers
 - b) If the umbrella is “claims made,” buy the highest limits you can in the underlying
 - c) Keep all policies in a layer identical when a quota share arrangement exists
 - d) Try to keep retro dates consistent through all layers
 - e) Try to negotiate the guaranteed availability of a “Supplemental Extended Reporting Period” in the event of nonrenewal
 - f) Put in writing for all parties

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

UNDERLYING CLAIMS MADE COVERAGE

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

If any “underlying insurance” is written on a claims-made basis, the following applies to the insurance provided by this policy which is excess over that other underlying insurance:

A. Paragraphs 1.c.(2), 1.c.(3), 1.d, 1.e. and 1.f. of Section I – Coverage A – Bodily Injury And Property Damage Liability are replaced by the following:

1. Insuring Agreement

c. This insurance applies to “bodily injury” and “property damage” only if:

(2) The “bodily injury” or “property damage” did not occur before the Retroactive Date, if any, shown in the Declarations of the “underlying insurance” or after the end of the policy period; and

(3) A claim for damages because of the “bodily injury” or “property damage” is first made against any insured, in accordance with Paragraph **d.** below, during the policy period or any Extended Reporting Period we provide under Extended Reporting Periods.

d. A claim by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:

(1) When notice of such claim is received and recorded by any insured or by the “underlying insurer” or us if the limits of the “underlying insurance” have been used up, whichever comes first; or

(2) When we make settlement in accordance with Paragraph **1.a.** above, or settlement is made by the “underlying insurer” with our agreement.

e. All claims for damages because of “bodily injury” to the same person, including damages claimed by any person or organization for care, loss of services, or death resulting at any time from the “bodily injury”, will be deemed to have been made at the time the first of those claims is made against any insured.

f. All claims for damages because of “property damage” causing loss to the same person or organization will be deemed to have been made at the time the first of those claims is made against any insured.

B. Paragraph 1.c. of Section I – Coverage B – Personal And Advertising Injury Liability is replaced by the following:

1. Insuring Agreement

c. This insurance applies to “personal and advertising injury” caused by an offense arising out of your business, but only if:

(1) The offense was committed in the “coverage territory”;

(2) The offense was not committed before the Retroactive Date, if any, shown in the Declarations of the “underlying insurance” or after the end of the policy period; and

(3) A claim for damages because of the “personal and advertising injury” is first made against any insured, in accordance with Paragraph **d.** below, during the policy period or any Extended Reporting Period we provide under Extended Reporting Periods.

C. The following is added to Paragraph 1. of Section I – Coverage B – Personal and Advertising Injury Liability:

1. Insuring Agreement

d. A claim made by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:

(1) When notice of such claim is received and recorded by any insured or by the “underlying insurer” or us if the limits of the “underlying insurance” have been used up, whichever comes first; or

- (2) When we make settlement in accordance with Paragraph 1.a. above or settlement is made by the “underlying insurer” with our agreement.

All claims for damages because of “personal and advertising injury” to the same person or organization as a result of an offense will be deemed to have been made at the time the first of those claims is made against any insured.

D. Exclusion 2.a.(3) Material Published Prior To Policy Period, of Section I – Coverage B – Personal And Advertising Injury Liability is replaced by the following:

b. Material Published Prior To The Policy Period

“Personal and advertising injury” arising out of oral or written publication, in any manner, of material whose first publication took place before the Retroactive Date, if any, shown in the Declarations.

E. The following section is added:

Extended Reporting Periods

1. With respect to any “underlying insurance” written on a claims-made basis, we will provide one or more Extended Reporting Periods, as described below, if:
 - a. This Coverage Part is cancelled or not renewed; or
 - b. “Underlying insurance” written on a claims-made basis is renewed or replaced with insurance that:
 - (1) Has a Retroactive Date later than the date shown in the Declarations of the “underlying insurance”; or
 - (2) Does not apply to “bodily injury”, “property damage” or “personal and advertising injury” on a claims-made basis.
2. Extended Reporting Periods do not extend the policy period or change the scope of coverage provided. They apply to claims for:
 - a. “Bodily injury” or “property damage” that occurs before the end of the policy period but not before the Retroactive Date, if any, shown in the Declarations of the “underlying insurance”; or

- b. “Personal and advertising injury” caused by an offense committed before the end of the policy period but not before the Retroactive Date, if any, shown in the Declarations of the “underlying insurance”.

Once in effect, Extended Reporting Periods may not be cancelled.

3. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the policy period and lasts for:

- a. Five years with respect to claims because of “bodily injury” and “property damage” arising out of an “occurrence” reported to us, not later than 60 days after the end of the policy period, in accordance with the Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition;
- b. Five years with respect to claims because of “personal and advertising injury” arising out of an offense reported to us, not later than 60 days after the end of the policy period, in accordance with the Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition; and
- c. Sixty days with respect to claims arising from “occurrences” or offenses not previously reported to us.

The Basic Extended Reporting Period does not apply to claims that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such claims.

4. The Basic Extended Reporting Period does not reinstate or increase the Limits of Insurance.
5. A supplemental Extended Reporting Period of unlimited duration is available, but only by an endorsement and for an extra charge. This supplemental period starts when the Basic Extended Reporting Period, set forth in Paragraph 3. above, ends.

You must give us a written request for the endorsement within 60 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

- a. The exposures insured on a claims-made basis;
- b. Previous types and amounts of insurance;
- c. Limits of Insurance available under this Coverage Part for future payment of damages; and
- d. Other related factors.

This endorsement shall set forth the terms, not inconsistent with this Section, applicable to the Supplemental Extended Reporting Period.

- 6. If the Supplemental Extended Reporting Period is in effect, we will provide a supplemental aggregate limit of insurance equal to the dollar amount of the Aggregate Limit shown in the Declarations in effect at the end of the policy period, but only for claims first received and recorded during the Supplemental Extended Reporting Period.

Limits of Insurance will be amended accordingly. The Personal And Advertising Injury Limit and the Each Occurrence Limit shown in the Declarations will then continue to apply.

SAMPLE

X. Certificates of insurance

A. Historical development

11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These certificates and the insurance policies required by this Paragraph 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Subparagraph 9.10.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

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B. Problems with standard certificate forms

1. Certificates do not include the information necessary to verify the insurance requirements
 - a) **Policy endorsed to reflect additional insured**
 - b) **Extent of coverage provided additional insured**
 - c) **Cross liability exclusion endorsement**
 - d) **Policy endorsed to reflect notice requirement**
2. Protection may be below additional insured's expectations
 - a) **Certificate reflects additional insured**
 - b) **Policy is endorsed**
 - c) **Endorsement is not given to certificate holder**
 - (1) Vicarious liability
 - (2) Direct liability

C. Failure to require, failure to review, or acceptance of certificate may create waiver and estoppel

Whalen v K-Mart Corp., 166 Ill 3d 339, 519 NE2d 991 (1988)

Geier v Hamer Enterprises, Inc., 226 Ill App 3d 372, 589 NE2d 711 (1st Dist 5th Div 1992)

D. Modification of a certificate may create coverage

Bonner County v Panhandle Rodeo Association, et al, 620 P2d 1102 (Idaho S Ct 1990)

Bucon, Inc. v Pennsylvania Manufacturing Insurance Co., 547 NYS2d 925 (AD 3 Dept 1989)

E. Policy terms control

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies below.

ACORD 25S ©

1. The disclaimer is not a legal requirement except in California (California insurance code section 384)
2. Most insurers require the disclaimer as a condition precedent to coverage
3. "For information only" provision has been held to allow insurer to avoid providing coverage for certificate holders

Mercado v Mitchell, et al, 264 NW2d 532 (Wis S Ct 1978)

F. Notice problems

Should any of the above described policies be canceled before the expiration date thereof, the issuing company will endeavor to mail _____ days written notice to the certificate holder named to the left, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.

ACORD 25S ©

1. Notice requirement of "will endeavor" creates no firm obligation to give notice
U.S. Pipe and Foundry Co. v U.S. Fidelity & Guaranty Co., 505 F2d 88 (US Ct App 5th Cir 1974)

2. Certificate holder may want the language modified

Should any of the above described policies be canceled before the expiration date thereof, the issuing company will ~~endeavor~~ to mail _____ days written notice to the certificate holder named to the left, ~~but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.~~

ACORD 25S ©

- a) **Some insurers may agree to the modified language**
 - b) **No standard endorsement for compliance**
 - (1) Even if the certificate is modified, without an actual endorsement no contractual obligation
 - (2) Lack of consideration
 - c) **What tracking system does the insurer have in place?**
3. The certificate holder may require a manuscript certificate to be used
- a) **Designed to give the certificate holder more assurances than the standard ACORD certificate**
 - b) **May require “home office” approval be the insurer**
 - c) **May have to be filed with the Department of Insurance**

G. *Suggestions and alternatives*

1. Certificate holder
- a) **Develop a manuscript certificate to be used**
 - b) **Request a certified copy of the policy**
 - (1) If not given, it may enhance the additional insured’s legal position
 - (2) If given, must be able to adequately review the policy
 - c) **If standard certificates are use, review for compliance**

2. Certificate giver
- a) **Certificate should not list the holder as an additional insured unless the policy is endorsed**
 - (1) A sample copy of a company specific endorsement should be attached
 - (2) The certificate should reflect the name and number of a “standard” endorsement
 - b) **Certificate should indicate the extent of the contractual liability coverage provided for the insured**
 - (1) Per the definition of “insured contract”, or per CG 24 26
 - (2) For perils of “bodily injury” and “property damage” only
 - (3) For perils of “bodily injury”, “property damage”, “personal and advertising injury” excluded
 - c) **Insurers should make an effort to notify certificate holders in case of policy cancellation**
 - (1) If certificate language is modified to eliminate “endeavor to” theory, policy should be endorsed
 - (2) Rights should not be given that are broader than those given to the first Named Insured
 - d) **Certificate holder should be notified if contractual requirement between named insured and additional insured for notice of material change will not be given**
 - e) **Certificate should reflect the policy(ies) to which the additional insured may expect protection**



CERTIFICATE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

PRODUCER	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
INSURED	E-MAIL ADDRESS:	
	PRODUCER CUSTOMER ID:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	INSURER A :	
	INSURER B :	
	INSURER C :	
	INSURER D :	
INSURER E :		
INSURER F :		

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

LOCATION OF PREMISES / DESCRIPTION OF PROPERTY (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	COVERED PROPERTY	LIMITS
	PROPERTY				BUILDING	\$
	CAUSES OF LOSS	DEDUCTIBLES			PERSONAL PROPERTY	\$
	BASIC	BUILDING			BUSINESS INCOME	\$
	BROAD	CONTENTS			EXTRA EXPENSE	\$
	SPECIAL				RENTAL VALUE	\$
	EARTHQUAKE				BLANKET BUILDING	\$
	WIND				BLANKET PERS PROP	\$
	FLOOD				BLANKET BLDG & PP	\$
						\$
						\$
	INLAND MARINE	TYPE OF POLICY				\$
	CAUSES OF LOSS					\$
	NAMED PERILS	POLICY NUMBER				\$
						\$
	CRIME					\$
	TYPE OF POLICY					\$
						\$
	BOILER & MACHINERY / EQUIPMENT BREAKDOWN					\$
						\$
						\$

SPECIAL CONDITIONS / OTHER COVERAGES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
	PHONE (A/C No. Ext):	FAX (A/C No.):
INSURED	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	INSURER A:	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
INSURER F:		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE \$
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
							MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMPIOP AGG \$
	OTHER:						\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR						EACH OCCURRENCE \$
	EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$
	DED <input type="checkbox"/> RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y <input type="checkbox"/> N	N/A				E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
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Section 4

Leased Properties Exposures

LEASED PROPERTIES EXPOSURES

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I. Elements of the Lease Agreement

A. Contract

1. Lessor of property transfers possession to another person
2. Lessee has right to use property for a definite period of time

B. Property described in contract

1. Real Property

- a) *Buildings*
- b) *Improvements and betterments*

2. Personal Property

- a) *Furniture and fixtures*
- b) *Machinery*
- c) *Office Equipment*
- d) *Contractors equipment*
- e) *Autos*

C. Legal requirements of lease agreements

1. Lessee must possess or occupy leased property with the express or implied consent of lessor
2. Lessee's rights must be subordinate to the property rights of the lessor
3. Lessor must retain an interest in the leased property that will revert to the lessor when the lease expires
4. Lessee must have the right to presently occupy or possess the property during the term of the lease

II. Types of Lease

A. Personal Property

1. Finance Lease

Lessee responsible for the maintenance costs, insurance expense, and other like expenditures. Lessee assumes responsibility for excess depreciation.

2. Net Lease

Lessee responsible for maintenance costs, insurance expenses, and other like expenses. Lessor assumes responsibility for depreciation.

3. Maintenance lease

Lessor is responsible for maintenance costs, insurance expenses, and other like expenditures. Lessee may be responsible for any deductible applied by insurer in the event of loss.

B. Real Property

1. Tenancy for years

a) Fixed period

2. Periodic tenancy

a) One year or a fraction of years and for successive similar periods unless terminated

3. Tenancy at will

a) No fixed period

C. Provisions of Lease Agreements

Description of the property
Term of the lease
Consideration
Obligations and rights of lessor
Obligations and rights of lessee
Insurance requirements

III. Personal Property

A. Homeowners HO 00 03

1. Coverage C – Contents

- THE INSURED CAN ELECT TO PROVIDE COVERAGE FOR PROPERTY OF OTHERS, SUBJECT TO THE policy deductible

Coverage C – Personal Property

1. Covered Property

We cover personal property owned or used by an "insured" while it is anywhere in the world. After a loss and at your request, we will cover personal property owned by:

- a. Others while the property is on the part of the "residence premises" occupied by an "insured";
- b. A guest or a "residence employee," while the property is in any residence occupied by an "insured."

2. Loss Payable Clause

NEW TO HO 2000

S. Loss Payable Clause

If the Declarations show a loss payee for certain insured personal property, the definition of "insured" is changed to include that loss payee with respect to that property.

If we decide to cancel or not renew this policy, that loss payee will be notified in writing.

3. Section II – Additional Coverages

C. Damage to Property of Others

- USE THIS Additional COVERAGE TO COVER the deductible

1. We will pay, at replacement cost, up to \$1000 per "occurrence" for "property damage" to property of others caused by an "insured."
2. We will not pay for "property damage":
 - a. To the extent of any amount recoverable under Section I;

4. Personal Umbrella

- MOST LEASES REQUIRE THE INSURED TO PROVIDE COVERAGE

Exclusions

This policy does not cover:

b) Any "property damage" to property:

1. used by;
2. rented to;
3. in the care, custody or control of;

any "insured" to the extent that the "insured" is under contract to provide insurance for such damage.

B. Building and Personal Property Coverage Form CP 00 10

1. Coverage B, Your Business Personal Property

a) *Your Business Personal Property*

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

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

- LEASED PROPERTY,
UNLESS CP 14 60
USED

- ◆ **If you do not have a contractual responsibility, the property is Personal Property of Others**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LEASED PROPERTY

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM
 CONDOMINIUM ASSOCIATION COVERAGE FORM
 CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM
 STANDARD PROPERTY POLICY

SCHEDULE			
Premises No.	Bldg. No.	Description of Property	Agreed Value (Optional)

- *CLM Commercial Property rule 31.c.(7)*
- *Separately scheduled*
- *With valued option, insured can cover the property for a stipulated value rather than Actual Cash Value*
- *Coinsurance still applies*

- A.** When this endorsement is attached to the STANDARD PROPERTY POLICY CP 00 99 the term Coverage Part in this endorsement is replaced by the term Policy.
- B.** Your Business Personal Property is revised to include personal property of others in your care, custody or control under written leases, as described in the Schedule or in the Declarations.
- C.** If an agreed value is entered for property in the Schedule or in the Declarations, this amount will be considered to be the value of the described property at the time of loss or damage. But this does not otherwise alter the application of the Coinsurance condition.
- D.** Property described in the Schedule or in the Declarations is not included under any Personal Property of Others coverage in this Coverage Part.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LOSS PAYABLE PROVISIONS

This endorsement modifies insurance provided under the following:

BUILDERS' RISK COVERAGE FORM
 BUILDING AND PERSONAL PROPERTY COVERAGE FORM
 CONDOMINIUM ASSOCIATION COVERAGE FORM
 CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM
 STANDARD PROPERTY POLICY

SCHEDULE

Location Number:	Building Number:	Applicable Clause (Enter C.1., C.2., C.3., or C.4.):
Description Of Property: Loss Payee Name: Loss Payee Address:		
Location Number:	Building Number:	Applicable Clause (Enter C.1., C.2., C.3., or C.4.):
Description Of Property: Loss Payee Name: Loss Payee Address:		
Location Number:	Building Number:	Applicable Clause (Enter C.1., C.2., C.3., or C.4.):
Description Of Property: Loss Payee Name: Loss Payee Address:		
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.		

- A. When this endorsement is attached to the STANDARD PROPERTY POLICY CP 00 99 the term Coverage Part in this endorsement is replaced by the term Policy.
- B. Nothing in this endorsement increases the applicable Limit of Insurance. We will not pay any Loss Payee more than their financial interest in the Covered Property. And we will not pay more than the applicable Limit of Insurance on the Covered Property.
- C. The following is added to the **Loss Payment** Loss Condition, as indicated in the Declarations or in the Schedule.

1. Loss Payable Clause

For Covered Property in which both you and a Loss Payee shown in the Schedule or in the Declarations have an insurable interest, we will:

- a. Adjust losses with you; and
- b. Pay any claim for loss or damage jointly to you and the Loss Payee, as interests may appear.

2. Lender's Loss Payable Clause

- a. The Loss Payee shown in the Schedule or in the Declarations is a creditor, including a mortgageholder or trustee, whose interest in Covered Property is established by such written instruments as:

- (1) Warehouse receipts;
- (2) A contract for deed;
- (3) Bills of lading;
- (4) Financing statements; or
- (5) Mortgages, deeds of trust or security agreements.

- b. For Covered Property in which both you and a Loss Payee have an insurable interest:

- (1) We will pay for covered loss or damage to each Loss Payee in their order of precedence, as interests may appear.
- (2) The Loss Payee has the right to receive the loss payment even if the Loss Payee has started foreclosure or similar action on the Covered Property.

- (3) If we deny your claim because of your acts or because you have failed to comply with the terms of the Coverage Part, the Loss Payee will still have the right to receive loss payment if the Loss Payee:

- (a) Pays any premium due under this Coverage Part at our request if you have failed to do so;
- (b) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
- (c) Has notified us of any change in ownership, occupancy or substantial change in risk known to the Loss Payee.

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

- (4) If we pay the Loss Payee for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Part:

- (a) The Loss Payee's rights will be transferred to us to the extent of the amount we pay; and
- (b) The Loss Payee's rights to recover the full amount of the Loss Payee's claim will not be impaired.

At our option, we may pay to the Loss Payee the whole principal on the debt plus any accrued interest. In this event, you will pay your remaining debt to us.

- c. If we cancel this policy, we will give written notice to the Loss Payee at least:

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

- d. If we elect not to renew this policy, we will give written notice to the Loss Payee at least 10 days before the expiration of this policy.

3. Contract Of Sale Clause

- a. The Loss Payee shown in the Schedule or in the Declarations is a person or organization you have entered a contract with for the sale of Covered Property.
- b. For Covered Property in which both of you and the Loss Payee have an insurable interest we will:
 - (1) Adjust losses with you; and
 - (2) Pay any claim for loss or damage jointly to you and the Loss Payee, as interests may appear.
- c. The following is added to the **Other Insurance** Condition:

For Covered Property that is the subject of a contract of sale, the word "you" includes the Loss Payee.

4. Building Owner Loss Payable Clause

- a. The Loss Payee shown in the Schedule or in the Declarations is the owner of the described building, in which you are a tenant.
- b. We will adjust loss to the described building with the Loss Payee. Any loss payment made to the Loss Payee will satisfy your claims against us for the owner's property.
- c. We will adjust losses to tenants' improvements and betterments with you, unless the lease provides otherwise.

SAMPLE

b) Coverage Extension of \$2,500

- PERSONAL EFFECTS OF INSURED, OFFICERS, PARTNERS, EMPLOYEES

① EXCEPT THEFT

- PERSONAL PROPERTY OF OTHERS

- \$2,500 limit

b. Personal Effects and Property of Others.

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

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

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

c) Coverage C, Personal Property of Others

- IN YOUR CARE, CUSTODY OR CONTROL AND
- IN OR ON building OR WITHIN 100 FEET

c. Personal Property of Others that is:

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

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

d) Valuation

- DOES NOT apply TO:

3. Replacement Cost

a. Replacement Cost (without deduction for depreciation) replaces Actual Cash Value in the Valuation Loss Condition of this Coverage Form.

b. This Optional Coverage does not apply to:

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

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

e) Optional Valuation

- CAN ONLY BE SELECTED WHEN building/business PERSONAL PROPERTY RC

- VALUE IN CONTRACT IS RC

4. Extension of Replacement Cost to Personal Property of Others

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

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

2. Exclusion in Special Cause of Loss Form CP 10 30

- DISTINGUISHES THOSE WHO HAVE A ROLE IN THE BUSINESS FROM THOSE WHO PROPERTY MAY BE ENTRUSTED

- COVERS ACTS OF DESTRUCTION BY AN EMPLOYEE

- h. Dishonest or criminal acts (including theft) by you, any of your partners, members, officers, managers, employees (including temporary employees and leased workers), directors, trustees or authorized representatives, whether acting alone or in collusion with each other or with any other party; or theft by any person to whom you entrust the property for any purpose, whether acting alone or in collusion with any other party.

This exclusion:

- (1) Applies whether or not an act occurs during your normal hours of operation;
- (2) Does not apply to acts of destruction by your employees (including temporary employees and leased workers) or authorized representatives; but theft by your employees (including temporary employees and leased workers) or authorized representatives is not covered.

C. Crime Insurance

1. Employee

- IN THE INSURED'S SERVICE
- COMPENSATE WITH WAGES
- HAVE THE RIGHT TO DIRECT AND CONTROL
- ON PREMISES COVERAGE FOR TEMP EMPLOYEES
- LEASED EMPLOYEES
- TRUSTEE OF EMPLOYEE BENEFIT PLAN

7. "Employee"

a. Means:

(1) Any natural person:

(a) While in your service and for the first 30 days immediately after termination of service, unless such termination is due to "theft" or any dishonest act committed by the "employee";

(b) Whom you compensate directly by salary, wages or commissions, and

(c) Who you have the right to direct and control while performing services for you;

(2) Any natural person who is furnished temporarily to you:

(a) To substitute for a permanent "employee" as defined in Paragraph 7.a.(1), who is on leave; or

(b) To meet seasonal or short-term work load conditions;

while that person is subject to your direction and control and performing services for you;

(3) Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary "employee" as defined in Paragraph 7.a.(2);

(4) Any natural person who is:

(a) A trustee, officer, employee, administrator or manager, except an administrator or manager who is an independent contractor, of any "employee benefit plan"; or

(b) Your director or trustee of yours while that person is engaged in handling "money", "securities" or "other property" of any "employee benefit plan";

a) Definition of "employee", continued

- FORMER EMPLOYEES
AS CONSULTANTS

(5) Any natural person who is a former "employee", partner, "member", "manager", director or trustee retained as a consultant while performing services for you;

- GUEST STUDENTS
AND INTERNS

(6) Any natural person who is a guest student or intern pursuing studies or duties;

- MERGED OR
CONSOLIDATED

(7) Any natural person employed by an entity merged or consolidated with you prior to the effective date of this insurance; and

- DIRECTORS ACTING
AS EMPLOYEES

(8) Any natural person who is your "manager", directors or trustee while:

(a) Performing acts within the scope of the usual duties of an "employee"; or

(b) Acting as a member of any committee duly elected or appointed by resolution of your board of directors or board of trustees to perform specific, as distinguished from general, directorial acts on your behalf.

b) "Employee" does not include agent, broker, factor, independent contractor, etc.

- DOES NOT INCLUDE
INDEPENDENT
CONTRACTOR

b. "Employee" does not mean:

Any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character not specified in Paragraph 7.a.

c) *Endorsements to change definition of employee:*

- (1) **CR 25 02** – Include Designated Agents as Employees
- (2) **CR 25 03** – Include Partners As Employees
- (3) **CR 25 04** – Include Members Of A Limited Liability Company As Employees
- (4) **CR 25 06** – Include Chairperson And Members Of Specified Committees As Employees
- (5) **CR 25 07** – Include Specified Directors Or Trustees On Committees As Employees
- (6) **CR 25 08** – Include Specified Non-Compensated Officers As Employees
- (7) **CR 25 09** – Include Volunteer Workers As Employees
- (8) **CR 25 10** – Include Volunteer Workers Other Than Fund Solicitors As Employees
- (9) **CR 25 11** – Include The Spouse And Children Of Building Manager, Superintendent Or Janitor As Employees
- (10) **CR 25 12** – Include Treasurers Or Tax Collectors As Employees
- (11) **CR 25 13** – Include Students As Employees
- (12) **CR 25 14** – Include Officers And Employees Of Federal Reserve Bank Acting As EFTS Agent As Employees
- (13) **CR 25 41** – Include Designated Persons Or Classes Of Persons As Employees
- (14) **CR 25 42** – Include Computer Software Contractors As Employees

2. Valuation

- RC SETTLEMENT

r. Valuation – Settlement:

(3) Property Other Than Money And Securities

- (a)** Loss of or damage to “other property” or loss from damage to the “premises” or its exterior for the replacement cost of the property without deduction for depreciation. However, we will not pay more than the least of the following:
 - (i)** The Limit of Insurance applicable to the lost or damaged property;
 - (ii)** The cost to replace the lost or damaged property with property of comparable material and quality and used for the same purpose; or
 - (iii)** The amount you actually spend that is necessary to repair or replace the lost or damaged property.
- (b)** We will not pay on a replacement cost basis for any loss or damage to property covered under Paragraph **r.(3)(a)**:
 - (i)** Until the lost or damaged property is actually repaired or replaced; and
 - (ii)** Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

If the lost or damaged property is not repaired or replaced, we will pay on an actual cash value basis.
- (c)** We will, at our option, settle loss or damage to such property:
 - (i)** In the “money” of the country in which the loss or damage occurred; or
 - (ii)** In the United States of America dollar equivalent of the “money” of the country in which the loss or damage occurred determined by the rate of exchange published in The Wall Street Journal on the day the loss was “discovered”.
- (d)** Any property that we pay for or replace becomes our property.

3. Types of property covered

- OWNED PROPERTY

- CLIENTS' PROPERTY
CR 04 01 COVERS
CLIENTS' PREMISES

I. Ownership Of Property; Interests Covered

The property covered under this insurance is limited to property:

- (1) That you own or lease;
- (2) That is held by you in any capacity; or
- (2) For which you are legally liable, provided you were liable for the property prior to the time the loss was sustained.

However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization. Any claim for loss that is covered under this policy must be presented by you.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CLIENTS' PROPERTY

This endorsement modifies insurance provided under the following:

COMMERCIAL CRIME COVERAGE FORM
COMMERCIAL CRIME POLICY
EMPLOYEE THEFT AND FORGERY POLICY

With regard to this Clients' Property Endorsement, the provisions of the coverage form or policy to which this endorsement is attached apply, unless modified by this endorsement.

A. The following insuring agreement is added to Section A. Insuring Agreements:

We will pay for loss of or damage to "money", "Securities" and "other property" sustained by your "client" resulting directly from "theft" committed by an identified "employee", acting alone or in collusion with other persons.

B. Under Section D. Exclusions in the Commercial Crime Coverage Form and Commercial Crime Policy, the Acts Committed By Your Employees, Managers, Directors, Trustees or Representatives Exclusion does not apply to this Insuring Agreement.

C. Under Section E. Conditions:

1. Paragraph (1) of the Duties in the Event of Loss Condition is replaced by the following:

(1) Notify us as soon as possible.

2. The Ownership of Property; Interests Covered Condition is replaced by the following:

The property covered under this Insuring Agreement is limited to property:

a. That your "client" owns or leases;

b. That your "client" holds for others in any capacity; or

c. For which your "client" is legally liable, provided your "client" was liable for the property prior to the time the loss was sustained.

However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization, including your "client". Any claim for loss that is covered under this Insuring Agreement must be presented by you.

D. Under Section F. Definitions:

1. The following definitions are added;

a. "Client" means any entity for whom you perform services under a written contract.

b. "Occurrence" means:

(1) An individual act;

(2) The combined total of all separate acts whether or not related; or

(3) A series of acts whether or not related; committed by an "employee", acting alone or in collusion with other persons, during the Policy Period shown in the Declarations, before such Policy Period, or both.

2. The following definition of "theft" is replaced by the following:

"Theft" means the unlawful taking of property to the deprivation of your "client".

Minimum Recommended Amount of Employee Dishonesty Insurance

The formula below was devised by the Surety Association of America and has been endorsed by the American Institute of Accountants. It is the result of a long and comprehensive survey of the fidelity losses in excess of \$10,000 over a period of 10 years.

This survey revealed that 65% of the losses were underinsured. Tests of the formula against the actual losses covered in the survey showed that the formula would have provided full protection in 95% of the cases.

The Formula

1. Enter Total Current Assets

(cash, deposits, securities, receivables, goods on hand, etc.)

\$ _____

2. Enter Goods on Hand

(raw materials, materials in process, finished merchandise or products)

\$ _____

3. Subtract 2 from 1 and enter remainder

\$ _____

4. Enter Annual Gross Sales or Income

\$ _____

Using the amounts above enter:

a. 5 % of 2 \$ _____

b. 20 % of 3 \$ _____

c. 10 % of 4 \$ _____

Exposure Index (a + b + c) \$ _____

Exposure Index Amount of Coverage	Minimum Recommended	Exposure Index Amount of Coverage	Minimum Recommended
Up to - \$ 25,000	\$ 15,000 - \$ 25,000		
\$ 25,000 - 125,000	25,000 - 50,000	1,750,000 - 2,125,000	200,000 - 225,000
125,000 - 250,000	50,000 - 75,000	2,125,000 - 2,500,000	225,000 - 250,000
250,000 - 500,000	75,000 - 100,000	2,500,000 - 3,325,000	250,000 - 300,000
500,000 - 750,000	100,000 - 125,000	3,325,000 - 4,175,000	300,000 - 350,000
750,000 - 1,000,000	125,000 - 150,000	4,175,000 - 5,000,000	350,000 - 400,000
1,000,000 - 1,375,000	150,000 - 175,000	5,000,000 - 6,075,000	400,000 - 450,000
1,375,000 - 1,750,000	175,000 - 200,000	6,075,000 - 7,150,000	450,000 - 500,000

NOTE: For businesses which perform service functions such as transporting the property of others, or which perform work on or process the property of others, the value of that property should be included in the "Total Current Assets" and the "Goods on Hand" totals.

For firms acting in an agency capacity which have custody of cash, securities, etc., belonging to others, or have disbursing or collecting responsibilities, the average amount of such items on hand at one time should be included in "Total Current Assets" and the annual volume of such items should be included in "Annual Gross Sales or Income."

D. Legal Liability Coverage Form

1. Covered Property

- PROPERTY of
OTHERS IN
YOUR CARE,
CUSTODY OR
CONTROL

1. Covered Property And Limitations

Covered Property, as used in this Coverage Form, means tangible property of others in your care, custody or control that is described in the Declarations or on the Legal Liability Coverage Schedule.

Covered Property does not include electronic data. Electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data. This paragraph does not apply to electronic data which is integrated in and operates or controls the building's elevator, lighting, heating, ventilation, air conditioning or security system.

2. Grant of Coverage

- LEGALLY obligated
TO pay
- COVERED
PROPERTY
- COVERED loss

We will pay those sums that you become legally obligated to pay as damages because of direct physical loss or damage, including loss of use, to Covered Property caused by an accident and arising out of any Covered Cause of Loss. We will have the right and duty to defend any "suit" seeking those damages. However, we have no duty to defend you against a "suit" seeking damages for direct physical loss or damage to which this insurance does not apply. We may investigate and settle any claim or "suit" at our discretion. But:

- (1) The amount we will pay for damages is limited as described in Section **C**. Limits of Insurance.
- (2) Our right and duty to defend end when we have used up the Limit of Insurance in the payment of judgments or settlements.

3. Contractual Exclusion, from Cause of Loss Form

- NO DEFENSE OR COVERAGE FOR LIABILITY OTHER THAN NEGLIGENCE

c. Legal Liability Coverage Form

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

(a) Contractual Liability

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

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

E. ISO Business Owners Policy • BP 00 03

1. Definition of Business Personal Property

- CONTRACTUAL RESPONSIBILITY

b. Business Personal Property located in or on the buildings or structures at the described premises or in the open (or in a vehicle) within 100 feet of the buildings or structures or within 100 feet of the premises described in the Declarations, whichever is distance is greater, including:

- (1) Property you own that is used in your business;
- (2) Property of others that is in your care, custody or control, except as otherwise provided in Loss Payment Property Loss Condition Paragraph **E.5.d.(3)(b)**;
- (3) Tenant's improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
 - (a) Made a part of the building or structure you occupy but do not own; and
 - (b) You acquired or made at your expense but cannot legally remove; and
- (4) Leased personal property for which you have a contractual responsibility to insure, unless otherwise provided for under Paragraph **1.b.(2)**; and
- (5) Exterior building glass, if you are a tenant and no Limit of Insurance is shown in the Declarations for Building property. The glass must be owned by you or in your care, custody or control.

2. Continental Insurance Company

- PERSONAL
PROPERTY IN YOUR
CCC

Personal property which belongs, in whole or part, to someone else and which is in your care or control.

3. General Accident

- SIMILAR PROPERTY

. . . and similar property held by the insured belonging to others for which the insured is legally liable.

4. Travelers

- USUAL AND
INCIDENTAL

. . . personal property of others while in his care, custody or control . . . all usual and incidental to the Named Insured's business.

5. Valuation

- ACV

6. Loss Payment

- d. Except as provided in (2) through (7) below, we will determine the value of Covered Property as follows:

(1) At replacement cost without deduction for depreciation, subject to the following:

(3) The following property at actual cash value:

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

F. Contractors Equipment

1. If long term, add to schedule

- SCHEDULED
PROPERTY
COVERAGE

1. THIS POLICY COVERS:

On the property described below or in schedule attached, to not exceeding the amount specified in respect of each item described against loss or damage thereto, directly caused by the risks and perils insured against.

2. Blanket Leased Equipment Wording

- DIRECT DAMAGE
COVERAGE FOR
LEASED PROPERTY

1. Coverage. This Policy covers Contractor's Equipment described in the Declarations, the property of the Insured, and the property of others operated by the Insured under a lease or rental agreement, within the forty-eight contiguous states of the United States, the District of Columbia and the Provinces of Canada.

3. Property Not Covered. This policy does not cover:

- d. Property which the insured has loaned, rented or leased to others.

3. Blanket Leased Equipment Endorsement

- LEGAL LIABILITY
COVERAGE FOR
LEASED PROPERTY

1. Property Covered We will cover the property and expenses described below for amounts not exceeding the sums specified in the Limits of Insurance Section of the Declarations Page.

- a. **Equipment.** This policy covers your contractors equipment and similar property of others for which you are legally liable, for up to the amount specified on each item described in the Schedule of Property on the Declarations Page.

IV. Business Auto Policy

A. Concept of Covered Auto

- Liability only
- Liability AND physical damage

- | |
|---|
| <p>1 = <u>Any "Auto."</u></p> <p>8 = <u>Hired "Autos" Only.</u> Only those "autos" you <u>lease, hire, rent or borrow.</u> This <u>does not include</u> any "auto" you lease, hire, rent, or borrow from any of your <u>"employees" or partners, (if you are a partnership), members (if you are a limited liability company) or members of their households.</u></p> |
|---|

B. Exclusion for Owners in "Who is an Insured"

1. You

- DIRECT AND VICARIOUS

- | |
|---|
| <p>a. You for <u>any covered "auto."</u></p> |
|---|

- ♦ Symbols designate covered "autos"
Direct and Vicarious liability

2. Permitted operators, except

- With permission, **EXCEPT**
- OWNER OF A HIRED OR BORROWED CAR
- YOUR "EMPLOYEE" IN PERSONAL CAR
- GARAGE, UNLESS ITS YOURS
- While helping UNLOAD
- PARTNER OR MEMBER IN PERSONAL CAR

- | |
|---|
| <p>b. Anyone else <u>while using with your permission</u> a covered "auto" you own, hire or borrow <u>except:</u></p> <p>(1) <u>The owner</u> or anyone else from whom you <u>hire or borrow</u> a covered "auto."</p> <p>This exclusion does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.</p> <p>(2) <u>Your "employee"</u> if the covered "auto" is <u>owned by that "employee"</u> or a member of his or her household.</p> <p>(3) Someone using a covered "auto" while he or she is working in a <u>business of selling, servicing, repairing, parking or storing "autos"</u> <u>unless that business is yours.</u></p> <p>(4) <u>Anyone other than your "employees",</u> partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees", while <u>moving property to or from a covered "auto."</u></p> <p>(5) A <u>partner</u> (if you are a partnership), or a <u>member</u> (if you are a limited liability company) for a covered "auto" <u>owned by him</u> or her or a member of his or her household.</p> |
|---|

- ♦ All five exceptions **should be covered by other policies.**
Excludes their direct liability Vicarious liability covered for "You"

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

HIRED AUTOS SPECIFIED AS COVERED AUTOS YOU OWN

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:

Endorsement Effective Date:

SCHEDULE

Description Of Auto:

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

A. Any "auto" described in the Schedule will be considered a covered "auto" you own and not a covered "auto" you hire, borrow or lease.

B. Changes In Covered Autos Liability Coverage

The following is added to the **Who Is An Insured** provision:

While any covered "auto" described in the Schedule is rented or leased to you and is being used by or for you, its owner or anyone else from whom you rent or lease it is an "insured" but only for that covered "auto".

- **No premium charge**
- **Coverage is primary because the hired auto is treated as an owned auto**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYEE AS LESSOR

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:

Endorsement Effective Date:

SCHEDULE

Description Of "Auto":

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

A. Any "auto" described in the Schedule will be considered a covered "auto" you own and not a covered "auto" you hire, borrow or lease.

B. While any covered "auto" described in the Schedule is leased to you by one of your "employees", the **Who Is An Insured** provision under **Covered Autos Liability Coverage** is changed to include that "employee" as an "insured".

- **Employees become insureds while their auto is leased to the named insured**
- **No premium charge**
- **Coverage is primary because employee's auto treated as an owned auto**

POLICY NUMBER:

COMMERCIAL AUTO
CA 20 01 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LESSOR – ADDITIONAL INSURED AND LOSS PAYEE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:
Endorsement Effective Date:

SCHEDULE

Insurance Company:	
Policy Number:	Effective Date:
Expiration Date:	
Named Insured:	
Address:	
Additional Insured (Lessor):	
Address:	
Designation or Description of "Leased Autos"	

Coverages	Limit Of Insurance
Covered Autos Liability	\$ Each Accident
Comprehensive	Actual Cash Value Or Cost Of Repair Whichever Is Less; Minus \$ Deductible For Each Covered "Leased Auto"
Collision	Actual Cash Value Or Cost Of Repair Whichever Is Less; Minus \$ Deductible For Each Covered "Leased Auto"
Specified Causes of Loss	Actual Cash Value Or Cost Of Repair Whichever Is Less; Minus \$ Deductible For Each Covered "Leased Auto"
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Coverage

1. Any "leased auto" designated or described in the Schedule will be considered a covered "auto" you own and not a covered "auto" you hire or borrow.
2. For a "leased auto" designated or described in the Schedule, the **Who Is An Insured** provision under **Covered Autos Liability Coverage** is changed to include as an "insured" the lessor named in the Schedule. However, the lessor is an "insured" only for "bodily injury" or "property damage" resulting from the acts or omissions by:
 - a. You;
 - b. Any of your "employees" or agents; or
 - c. Any person, except the lessor or any "employee" or agent of the lessor, operating a "leased auto" with the permission of any of the above.
3. The coverages provided under this endorsement apply to any "leased auto" described in the Schedule, or when the lessor or his or her agent takes possession of the "leased auto", whichever occurs first.

B. Loss Payable Clause

1. We will pay, as interest may appear, you and the lessor named in this endorsement for "loss" to a "leased auto".
2. The insurance covers the interest of the lessor unless the "loss" results from fraudulent acts or omissions on your part.
3. If we make any payment to the lessor, we will obtain his or her rights against any other party.

C. Cancellation

1. If we cancel the policy, we will mail notice to the lessor in accordance with the Cancellation Common Policy Condition.
2. If you cancel the policy, we will mail notice to the lessor.
3. Cancellation ends this agreement.

- D. The lessor is not liable for payment of your premiums.

E. Additional Definition

As used in this endorsement:

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.

- Adds the owner of the leased or rented auto as an insured
- Excludes sole negligence of the owner
- Lease must require lessee to provide direct primary coverage for the lessor
- Otherwise, it does not meet the definition of "leased auto"
- Coverage is primary because the auto is treated as an owned auto

3. Anyone liable for the conduct of the insured

- RESPONSIBLE FOR THE CONDUCT

c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

♦ Parent responsible for child?

♦ Vicarious liability

C. Contractual Liability

1. Policy exclusion

- CONTRACTUAL EXCLUSION

- *COVERS* defined CONTRACTS

2. Contractual

Liability assumed under any contract or agreement. But this exclusion does not apply to liability for damages:

- a. Assumed in a contract or agreement that is an "insured contract;" provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or
- b. That the "insured" would have in the absence of the contract or agreement.

2. Definition of "Insured Contract"

- INSURED CONTRACT

- TORT liability ASSUMED

- DEFINITION OF TORT liability ASSUMED

- RENTAL of ANY AUTO

- EXCEPT physical DAMAGE

- *Exclusions* in DEFINITION

- AUTO LEASED with DRIVER

H. "Insured contract" means:

5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement
6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".

An "insured contract" does not include that part of any contract or agreement:

- b.. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is owned, leased or rented with a driver;

D. Endorsements providing physical damage coverage

1. That provide specific coverage for the owner

a) Loss payable clause – CA 99 44

- INTEREST FORM
- BUSINESS RISK EXCLUSION

- | |
|---|
| <p>A. We will pay, as interest may appear, you and the loss payee named in the policy for "loss" to a covered "auto".</p> <p>B. The insurance covers the interest of the loss payee <u>unless the "loss" results from conversion, secretion or embezzlement on your part.</u></p> |
|---|

2. That provide blanket coverage for the owner

a) Additional Insured - Lessor – CA 20 01

- INTEREST FORM
- VENDOR'S SINGLE INTEREST?
- SUBROGATION RIGHTS

- | |
|--|
| <p>B. LOSS PAYABLE CLAUSE</p> <p>1. We will pay, as interest may appear, you and the lessor named in this endorsement for "loss" to a "leased auto".</p> <p>2. The insurance covers the interest of the lessor <u>unless the "loss" results from fraudulent acts or omissions on your part.</u></p> <p>3. If we make any payment to the lessor, <u>we will obtain his or her rights</u> against any other party</p> |
|--|

b) Definition of "leased auto"

- SUBSTITUTE, REPLACEMENT

- | |
|--|
| <p>E. Additional Definition</p> <p>As used in this endorsement:</p> <p>"Leased auto" means an "auto" leased or rented to you, <u>including any substitute, replacement or extra "auto" needed to meet seasonal or other needs</u>, under a leasing or rental agreement that <u>requires you to provide direct primary insurance for the lessor.</u></p> |
|--|

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTO LOAN/LEASE GAP COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:

Endorsement Effective Date:

SCHEDULE

Vehicle No.	Description Of Loan/Lease "Auto(s)" Which Are Covered "Autos"	Other Than Collision Additional Premium	Collision Additional Premium
		\$	\$
		\$	\$
		\$	\$
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.			

Physical Damage Coverage is amended by the addition of the following:

In the event of a total "loss" to a covered "auto" shown in the Schedule or Declarations for which a specific premium charge indicates that Auto Loan/Lease GAP Coverage applies, we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

1. The amount paid under the policy's Physical Damage Coverage; and

2. Any:

- a. Overdue lease/loan payments at the time of the "loss".
- b. Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage.
- c. Security deposits not returned by the lessor.
- d. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
- e. Carry-over balances from previous loans or leases.

E. Rental Vehicle Coverage

- TRANSPORTATION
EXPENSE

- THEFT OF PRIVATE
PASSENGER TYPE

- LOSS OF USE OF
RENTAL CAR

4. Coverage Extension

A. Transportation Expenses

We will pay up to \$20 per day to a maximum of \$600 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss."

B. Loss of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver, under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

1. Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
2. Specified Causes Of Loss only if the Declarations indicate that Specified causes of Loss Coverage is provided for any covered "auto"; or
3. Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is \$20 per day, to a maximum of \$600.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

OPTIONAL LIMITS – LOSS OF USE EXPENSES

This endorsement modifies insurance provided under the following:

AUTO DEALER COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:

Endorsement Effective Date:

SCHEDULE

Amount Per Day	Maximum	Premium
\$	\$	\$
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.		

Physical Damage Coverage is amended as follows:

The **Coverage Extension** for **Loss Of Use Expenses** in Paragraph **A.4.b.** in the Business Auto and Motor Carrier Coverage Forms and Paragraph **F.2.** in the Auto Dealers Coverage Form of the **Physical Damage Coverage** Section are replaced by the following:

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or agreement. We will pay for loss of use expenses caused by:

(1) Other than collision only if the Declarations indicates that Comprehensive Coverage is provided for any covered "auto";

(2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or

(3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

However, the most we will pay under this coverage is the amount shown in the Schedule.

1. Limited Worldwide Coverage For Hired Autos

7. Policy Period, Coverage Territory

Under this Coverage Form, we cover "accidents" and "losses" occurring:

- a. During the policy period shown in the Declarations; and
- b. Within the coverage territory.

The coverage territory is:

- a. The United States of America;
- b. The territories and possessions of the United States of America;
- c. Puerto Rico;
- d. Canada; and
- e. Anywhere in the world if a covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less provided that the "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, the territories and possessions of the United states of America, Puerto Rico, or Canada or in a settlement we agree to.

We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

- TEMPORARY RENTAL
OF PRIVATE
PASSENGER VEHICLES

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYEE HIRED AUTOS

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. Changes In Covered Autos Liability Coverage

The following is added to the **Who Is An Insured** Provision:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

B. Changes In General Conditions

Paragraph **5.b.** of the **Other Insurance** Condition in the Business Auto and Auto Dealers Coverage Forms and Paragraph **5.f.** of the **Other Insurance – Primary And Excess Insurance Provisions Condition** in the Motor Carrier Coverage Form are replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

1. Any covered "auto" you lease, hire, rent or borrow; and

- **Makes the employee (and fellow employees for that rental) an insured when they rent cars for business in their personal name**
- **Must arise from duties relating to the conduct of employer's business**
- **Primary coverage for Hired Physical Damage**

V. Real Property

A. Types of Interest

1. Lessor - ownership interest
2. Lessee - use interest

B. Building and Personal Property Coverage Form CP 00 10

- INTEREST policy

4. Loss Payment

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

C. Homeowners Policy

- If OWNED by A CORPORATION, NO COVERAGE

A. Insurable Interest And Limit Of Liability

Even if more than one person has an insurable interest in the property covered, we will not be liable in any one loss:

- a. To an "insured" for more than the amount of such "insured's" interest at the time of loss; or
- b. For more than the applicable limit of liability.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED RESIDENCE PREMISES

SCHEDULE*

Name and Address of Person or Organization:

Interest:

* Entries may be left blank if shown elsewhere in this policy for this coverage.

DEFINITIONS

Definition **5**, which defines "insured" is extended to include the person or organization named in the Schedule above, but only with respect to:

1. Coverage **A** – Dwelling and Coverage **B** – Other Structures; and
2. Coverage **E** – Personal Liability and Coverage **F** – Medical Payments to Others but only with respect to "bodily injury" or "property damage" arising out of the ownership, maintenance or use of the "residence premises".

SECTION II - EXCLUSIONS

This coverage does not apply to "bodily injury" to an "employee", "residence employee" or a temporary employee furnished to the "insured" to substitute for a permanent "residence employee" arising out of or in the course of the employee's employment by the person or organization.

CANCELLATION AND NONRENEWAL NOTIFICATION

If we decide to cancel or not to renew this policy, the person or organization named in the Schedule will be notified in writing.

All other provisions of this policy apply.

- *Homeowners rule 104.A.(2), (3) & (5)*
- *For land purchase contracts when title passes when the terms of the contract are completed*
- *For life estate arrangements*

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INTERESTS

RESIDENCE PREMISES

SCHEDULE*

Name and Address of Person or Organization: Effective Date of Interest: (Optional) Description of Interest:
Name and Address of Person or Organization: Effective Date of Interest: (Optional) Description of Interest:
* Entries may be left blank if shown elsewhere in this policy for this coverage.

In addition to the Mortgagee(s) shown in the Declarations or elsewhere in this policy, the persons or organizations named in the Schedule above also have an interest in the "residence premises".

CANCELLATION AND NONRENEWAL NOTIFICATION

If we decide to cancel or not to renew this policy, the persons or organizations named in the Schedule will be notified in writing.

All other provisions of this policy apply.

- *Homeowners rule 211*
- *For persons or organizations who have insurable interest in the property*
- *Used when Additional Insured endorsement 04 41 is NOT used*

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TRUST ENDORSEMENT**SCHEDULE**

1.	Trust Name	Trust Address	
Insured(s)			
2.	Trustee Name(s)	Trustee Address(es)	3. Trust Name
Information required to complete this schedule, if not shown above, will be shown in the Declarations.			

The following provisions apply with respect to the Trust and Trustee(s) named in Items 1. and 2. In the Schedule of this endorsement.

DEFINITIONS

A. The following is added to Definition 5. "Insured":

5. "Insured means:

d. The Trust, if recognized under applicable state law as a legal entity with the capacity to sue or be sued in a court having jurisdiction and if named in Item 3. In the Schedule as an Insured, but only for the following coverages:

(1) Coverage **A** – Dwellings and Coverage **B** – Other Structures; and

(2) Coverage **E** – Personal Liability and Coverage **F** – Medical Payments to Others, but only with respect to "bodily injury" or "property damage" arising out of the ownership, maintenance or use of an "insured location" as defined under Definitions, Paragraph **B.6.a.** of this endorsement.

e. The Trustee(s) named in Item 2, in the Schedule as an insured but only for the following coverages:

(1) Coverage **A** – Dwelling and Coverage **B** – Other Structures; and

- (2) Coverage **E** – Personal Liability and Coverage **F** – Medical Payments To Others, but only with respect to “bodily injury” or “property damage” arising out of the ownership, maintenance or use of an “insured location” as defined under Definition, Paragraph **B.6.a.** of this endorsement.

However, this Paragraph **A.5.e.** applies only with respect to the Trustee’s duties as a Trustee of the Trust named in Item 1. in the Schedule.

B. The following definitions are replaced:

3. “Business” means:

- a.** A trade, profession or occupation engaged in on a full-time, part-time or occasional basis; or
- b.** Any other activity engaged in for money or other compensation, except the following:
 - (1) One or more activities, not described in (2) through (5) below, for which no “insured” receives more than \$2,000 in total compensation for the 12 months before the beginning of the policy period;
 - (2) Volunteer activities for which no money is received other than payment for expenses incurred to perform the activity;
 - (3) Providing home day care services for which no compensation is received, other than the mutual exchange of services;
 - (4) The rendering of home day care services to a relative of an “insured”; or
 - (5) Activities performed as a Trustee in connection with administering the Trust named in Item 1. In the Schedule of this endorsement.

6. “Insured Location” means:

- a.** The following real property but only if legal title to such property is held in trust with respect to the Trust named in Item 1. In the Schedule:
 - (1) The “residence premises”;
 - (2) The part of other premises, other structures and grounds used by you as a residence; and

- (a) Which is shown in the Declarations; or
- (b) Which is acquired by the trust during the policy period for your use as a residence;
- (3) Any premises used by you in connection with a premises described in (1) and (2) above;
- (4) Vacant land, other than farm land;
- (5) Land on which a one-, two-, three-, or four-family dwelling is being built as a residence for an “insured”; and
- (6) Individual or family cemetery plots or burial vaults of an “insured”.

b. Any part of a premises:

- 1. Not owned by an “insured”; and
- 2. Where an “insured” is temporarily residing;
- c.** Any part of a premises occasionally rented to an “insured” for other than “business” use;
- d.** Vacant land, other than farm land, rented to an “insured”; and
- e.** Land rented to an “insured” on which a one-, two-, three- or four family dwelling is being built as a residence for an “insured”.

SECTION II – EXCLUSIONS

Exclusion **F.6.** is replaced by the following:

F. Coverage E – Personal Liability

Coverage **E** does not apply to:

- 6.** “Bodily injury” to you or an “insured” as defined under Definition **5.a.**, **5.b.** or **5.e.**

This exclusion also applies to any claim made or suit brought against that “insured” to:

- a.** Repay; or
- b.** Share damages with;
another person who may be obligated to pay damages because of bodily injury to that “insured”.

SECTIONS I AND II – CONDITIONS

A. The following is added to the **Cancellation** provision:

If this policy is cancelled, notice will also be mailed to the Trustee(s) named in Item 2. In the Schedule.

B. The following provision is added to the **Nonrenewal** provision:

If we elect not to renew this policy, notice will also be mailed to the Trustee(s) named in Item 2. In the Schedule.

The following provisions are added:

TRUST DOCUMENTS

We must be provided, as often as we reasonably request, with copies of the trust documents for the Trust named in Item 1. In the Schedule.

CHANGES AND NOTIFICATION REQUIREMENTS

We must be notified promptly of any of the following changes related to the Trust named in Item 1. In the Schedule that occur during the policy period:

- A.** Changes in:
 - 1. The name and address of the Trust;
 - 2. The Trustee(s) of the Trust, including the addition or removal of a trustee; or
 - 3. The mailing address of any trustee of the Trust.
- B.** Termination of the Trust.
- C.** Death or disability of a trustee.
- D.** The grantor (or settlor) of the Trust discontinues residing at the "residence premises".

PERSONAL INJURY COVERAGE

If the Personal Injury endorsement is attached to this policy, Exclusion 1.i. is replaced by the following:

This insurance does not apply to:

- 1. "Personal injury":
 - i. To you or an "insured" as defined under Definition 5.a., 5.b. or 5.e.
This exclusion also applies to any claim made or suit brought against that "insured" to:
 - (1) Repay; or
 - (2) Share damages with;
another person who may be obligated to pay damages because of "personal injury" to that "insured".

All other provisions of this policy apply.

POLICY NUMBER:

COMMERCIAL PROPERTY

CP 12 19 06 07

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – BUILDING OWNER

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART
STANDARD PROPERTY POLICY

SCHEDULE

Premises Number:		Building Number:	
Building Description:			
Building Owner Name:			
Building Owner Address:			
Premises Number:		Building Number:	
Building Description:			
Building Owner Name:			
Building Owner Address:			
Premises Number:		Building Number:	
Building Description:			
Building Owner Name:			
Building Owner Address:			
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.			

The building owner identified in this endorsement is a Named Insured, but only with respect to the coverage provided under this Coverage Part or Policy for direct physical loss or damage to the building(s) described in the Schedule.

D. Homeowners Section II

1. Fire, smoke or explosion damage

- SUBJECT TO THE SECTION II LIMIT

F. Coverage E – Personal Liability

Coverage E does not apply to:

3. "Property damage" to property rented to, occupied or used by or in the care of an "insured." This exclusion does not apply to "property damage" caused by fire, smoke or explosion;

E. Commercial General Liability Coverage Form CG 00 01/02

1. Property damage exclusion

- OWNED, RENT, OCCUPY
- ALIENATED PREMISES
- LOANED PROPERTY
- PERSONAL PROPERTY IN CCC
- SHORT TERM RENTAL legal liability

j. Damage to Property

"Property damage" to:

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

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits of Insurance.

2. Damage to Premises Rented to You

- EXCEPTION TO EXCLUSIONS

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

3. Contractual Exclusion

- CONTRACTUAL does NOT include
- FIRE DAMAGE

9. "Insured contract" means:

- a. A contract for lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

F. Legal Liability Coverage Form CP 00 40

1. Covered Property

- PROPERTY of OTHERS IN YOUR CARE, CUSTODY OR CONTROL

1. Covered Property And Limitations

Covered Property, as used in this Coverage Form, means tangible property of others in your care, custody or control that is described in the Declarations or on the Legal Liability Coverage Schedule.

Covered Property does not include electronic data. Electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data. This paragraph does not apply to electronic data which is integrated in and operates or controls the building's elevator, lighting, heating, ventilation, air conditioning or security system.

A. How the coverage applies

- LEGALLY OBLIGATED TO pay
- COVERED PROPERTY
- COVERED LOSS

We will pay those sums that you become legally obligated to pay as damages because of direct physical loss or damage, including loss of use, to Covered Property caused by an accident and arising out of any Covered Cause of Loss. We will have the right and duty to defend any "suit" seeking those damages. However, we have no duty to defend you against a "suit" seeking damages for direct physical loss or damage to which this insurance does not apply. We may investigate and settle any claim or "suit" at our discretion. But:

- (1) The amount we will pay for damages is limited as described in Section C. Limits of Insurance.
- (2) Our right and duty to defend end when we have used up the Limit of Insurance in the payment of judgments or settlements.

1. Causes of Loss

- CUSTOMER picks
THE CAUSE OF LOSS

2. Covered Causes Of Loss

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

- ◆ The CGL covers fire damage only

2. How the coverage applies

- LEGALLY OBLIGATED TO PAY

- COVERED PROPERTY

- COVERED LOSS

We will pay those sums that you become legally obligated to pay as damages because of direct physical loss or damage, including loss of use, to Covered Property caused by an accident and arising out of any Covered Cause of Loss. We will have the right and duty to defend any "suit" seeking those damages. However, we have no duty to defend you against a "suit" seeking damages for direct physical loss or damage to which this insurance does not apply. We may investigate and settle any claim or "suit" at our discretion. But:

- (1) The amount we will pay for damages is limited as described in Section C. Limits of Insurance.
- (2) Our right and duty to defend end when we have used up the Limit of Insurance in the payment of judgments or settlements.

- NO DEFENSE OR COVERAGE FOR LIABILITY OTHER THAN NEGLIGENCE

c. Legal Liability Coverage Form

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

(a) Contractual Liability

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

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

VI. Improvements and Betterments

A. Definition from Leasehold Interest Coverage Form CP 00 60

- MADE PART OF THE building

- CAN'T REMOVE WHEN YOU LEAVE

Improvements and betterments are fixtures, alterations, installations or additions:

- (1) Made a part of the building or structure you occupy but do not own; and
- (2) You acquired or made at your expense but cannot legally remove.

B. Ownership of the Improvements and Betterments

1. Once installed, the improvements and betterments become part of the realty
2. Tenant has a "use" interest in the property

C. Common Law Rules

1. Neither the lessor nor the lessee is obligated to make physical improvements
2. The lessee has no right to make improvements required to adapt the premises
3. The lessor is under no obligation to pay the lessee for any improvements
4. The lessor is responsible for alterations or improvements required by law

D. Responsibility for repair or replacement

1. . . . lessee may at any time during the lease term, subject to the terms set forth below and at his own expense, make any alterations, additions or improvements in and to the demised premises and building. All alterations, additions and improvements on or in the demised premises at the commencement of the term, shall be part of the demised premises and the sole property of the lessor, except that all moveable trade fixtures installed by lessee shall be and remain the property of lessee.

2. Lessee shall have the right at its own expense from time to time during the lease term to improve or alter the demised premises in the following manner: _____. Lessee shall be permitted within 60 days after expiration or sooner termination of this lease to remove any building or other improvement erected or made by it, provided, however, that it repair any damage to the premises caused by such removal and provided that any such building or improvement that shall not have been removed by lessee on, or within 60 days after expiration or sooner termination of this lease shall be deemed abandoned by lessee and shall thereupon become the absolute property of lessor without compensation to lessee.

E. Insurance Options

1. Building and Personal Property Coverage Form • CP 00 10

a) Definition of Building

- PERMANENTLY
INSTALLED

USE CP 14 15 IF
MACHINERY NOT
PERMANENTLY
INSTALLED

- PROPERTY USED TO
SERVICE THE
PREMISES

- ADDITIONS,
ALTERATIONS &
REPAIRS IF NO
OTHER INSURANCE

- MATERIALS WITHIN
100 FEET

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL PROPERTY NOT COVERED

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM
 CONDOMINIUM ASSOCIATION COVERAGE FORM
 CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM
 STANDARD PROPERTY POLICY

The following is added to PROPERTY NOT COVERED if an "X" is shown in a box in the Schedule below:

Prem. No.	Bldg. No.	SCHEDULE* Description of Property
<input type="checkbox"/>		Awnings or canopies of fabric or slat construction, including their supports
<input type="checkbox"/>		Brick, metal, stone, or concrete chimneys or stacks not forming part of a building, or metal smokestacks
<input type="checkbox"/>		Crop silos
<input type="checkbox"/>		Swimming pools, diving towers or platforms
<input type="checkbox"/>		Waterwheels, windmills, wind pumps or their towers
<input type="checkbox"/>		The value of improvements, alterations or repairs (including labor, materials and supplies) being performed by _____. This includes existing real property that will be demolished or permanently removed in the course of making the improvements, alterations or repairs.
<input type="checkbox"/>		Personal Property contained in safes or vaults
<input type="checkbox"/>		Contents of crop silos
<input type="checkbox"/>		Glass which is not part of a building or structure
<input type="checkbox"/>		Metals in ingots, pigs, billets, or scraps
<input type="checkbox"/>		Ores, gravels, clay or sand
<input type="checkbox"/>		Property of others
<input type="checkbox"/>		Property stored in open yards
<input type="checkbox"/>		Signs inside the premises
<input type="checkbox"/>		Vending machines or their contents
<input type="checkbox"/>		Tenants improvements or betterments
<input type="checkbox"/>		"Stock"

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

Prem. No.	Bldg. No.	Description of Property
<input type="checkbox"/>		Buildings or their contents in which any cooking is done, including restaurants and lunch rooms
<input type="checkbox"/>		Buildings or their contents used to repair tires or electric batteries except for buildings or their contents used for patching of tires and tubes
<input type="checkbox"/>		Buildings or their contents used to store or repair motor vehicles you do not own except for buildings or their contents used for occasional incidental repairs
<input type="checkbox"/>		Buildings used principally for storage, sales or repairing of appliances or heating devices or their parts
<input type="checkbox"/>		Petroleum products and other merchandise, including the contents of above or below ground tanks

- *CLM Rules 30 and 31*
- *Eliminates coverage for the selected property*
- *Used when coverage is not desired or needed for the class of property*

b) Definition of your Business Personal Property

- IMPROVEMENTS & BETTERMENTS

① USE INTEREST

② CANNOT legally REMOVE

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

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

◆ Use interest in improvements and betterments

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

YOUR BUSINESS PERSONAL PROPERTY – SEPARATION OF COVERAGE

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM
STANDARD PROPERTY POLICY

- A. The following Limits of Insurance and Covered Causes of Loss apply to the types of property included under YOUR BUSINESS PERSONAL PROPERTY:

SCHEDULE

Prem. No.	Bldg. No.	Type of Property	Limit of Insurance	Causes Of Loss Form Applicable	Coinsurance
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- B. If a limit of insurance is shown for Your Business Personal Property in the Declarations, without further indication of the Type of Property, that Limit of Insurance will not apply to any property described in this endorsement.

- CLM Rules 31 and 38
- Used to split coverage on Your Business Personal Property into specific categories. This allows specific limits to be assigned to each category.
- When Your Business Personal Property is written with a single limit shown, the highest rate is used. When shown as separate amounts on this endorsement, improvements and betterments can use the building rate.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SCHEDULED BUILDING PROPERTY TENANT'S PROPERTY

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM
STANDARD PROPERTY POLICY

SCHEDULE

Location of Building:	
Causes If Loss Form (and related endorsements, if any);	
Valuation Condition: Actual Cash Value <input type="checkbox"/> Or	Replacement Cost <input type="checkbox"/>
Coinurance (if applicable):	%
Deductible On Building Glass (if any):	\$
Deductible On Building Property Other Than Glass	\$
Description Of Building Glass	Limit Of Insurance
	\$
Description Of Other Building Property	Limit Of Insurance
	\$
	\$
	\$
Information required to complete this Schedule, if not shown above, will be shown in the declarations.	

A. Under this endorsement, building property means the building glass, building fixtures and permanently installed machinery and equipment described in the Schedule, which are part of the building shown in the Schedule.

B. We will pay for direct physical loss of or damage to the described building property at the building shown in the Schedule caused by or resulting from a Covered Cause of Loss shown in the Schedule, provided that:

1. You are a tenant of the building shown in the Schedule; and
2. You have a contractual responsibility to insure such property, or a contractual responsibility to pay for loss or damage to such property.

C. The value of the building property covered under the endorsement will be determined in accordance with the terms of the Valuation Condition indicated in the Schedule, or at the amount for which you are liable under contract, whichever is less. Of required by law, glass is covered at the cost of replacement with safety glazing material. However, the most we will pay for the coverage provided under this endorsement is the applicable Limit Of Insurance shown in the Schedule.

D. The Coinsurance Condition applies to the property described in the Schedule only if a Coinsurance percentage is shown in the Schedule.

E. Any coverage provided under this Coverage Form or Policy for Your Business Personal Property or Personal Property of Others does not apply to the property described in the Schedule.

SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UNSCHEDULED BUILDING PROPERTY TENANT'S PROPERTY

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM
STANDARD PROPERTY POLICY

SCHEDULE

Location of Building:	
Causes If Loss Form (and related endorsements, if any);	
Valuation Condition: Actual Cash Value <input type="checkbox"/>	Or Replacement Cost <input type="checkbox"/>
Coinsurance (if applicable):	%
Deductible On Building Glass (if any):	\$
Limit Of Insurance On Building Glass:	\$
Deductible On Building Property Other Than Glass	\$
Limit Of Insurance On Building Property Other Than Glass: \$	
Information required to complete this Schedule, if not shown above, will be shown in the declarations.	

- A.** If a Limit Of Insurance is shown in the Schedule for Building Glass, building property means building glass that is part of the building shown in the Schedule.
- B.** If a Limit Of Insurance is shown in the Schedule for Building Property Other Than Glass, building property means building fixtures and permanently installed machinery and equipment that are part of the building shown in the Schedule.
- C.** We will pay for direct physical loss or damage to building property at the building shown in the Schedule caused by or resulting from a Covered Cause of Loss shown in the Schedule, provided that:
1. You are a tenant of the building shown in the Schedule; and
 2. You have a contractual responsibility to insure such property, or a contractual responsibility to pay for loss or damage to such property.
- D.** The value of building property covered under this endorsement will be determined in accordance with the terms of the Valuation Condition indicated in the Schedule, or at the amount for which you are liable under contract, whichever is less. If required by law, glass is covered at the cost of replacement with safety glazing material. However, the most we will pay for the coverage provided under this endorsement is the applicable Limit Of Insurance shown in the Schedule.
- E.** The Coinsurance Condition applies to the property covered under this endorsement only if a Coinsurance percentage is shown in the Schedule.
- F.** Any coverage provided under this Coverage Form or Policy for Your Business Personal Property or Personal Property Of Others does not apply to the property covered under this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ORDINANCE OR LAW COVERAGE FOR TENANT'S INTEREST IN IMPROVEMENTS AND BETTERMENTS (TENANT'S POLICY)

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM
STANDARD PROPERTY FORM

SCHEDULE

Building Number/ Premises Number	Coverage A	Coverage B Limit Of Insurance	Coverage C Limit Of Insurance	Coverages B And C Combined Limit Of Insurance
/	<input type="checkbox"/>	\$	\$	\$ *
/	<input type="checkbox"/>	\$	\$	\$ *
/	<input type="checkbox"/>	\$	\$	\$ *
Description Of Tenant's Improvements And Betterments				
At Building Number/Premises Number				
At Building Number/Premises Number				
At Building Number/Premises Number				
Post-Loss Ordinance Or Law Option: Yes <input type="checkbox"/> No <input type="checkbox"/>				
<small>*Do not enter a Combined Limit of Insurance if individual Limits of Insurance are selected for Coverages B and C, or if one of these Coverages is not applicable.</small>				
<small>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</small>				

A. Introduction

Each Coverage – Coverage **A**, Coverage **B**, and Coverage **C** – is provided under this endorsement only if that Coverage(s) is chosen by entry in the above Schedule and then only with respect to the improvements and betterments identified with that Coverage(s) in the Schedule.

Improvements and betterments are fixtures, alterations, installations or additions made a part of the building you occupy but do not own and which you acquired or made at your expense but cannot legally move.

B. Application Of Coverage(s)

The Coverage(s) provided by this endorsement applies with respect to an ordinance or law that regulates the demolition, construction or repair of buildings, or establishes zoning or land use requirements at the described premises, subject to the following:

1. The requirements of the ordinance or law are in force at the time of loss. But if the Post-Loss Ordinance Or Law Option is indicated in the Schedule as being applicable, then Paragraph **B.2.** applies instead of this Paragraph **B.1.**
2. The requirements of the ordinance or law are in force at the time of loss; or the ordinance or law is promulgated or revised after the loss but prior to the commencement of reconstruction or repair and provided that such ordinance or law requires compliance as a condition precedent to obtaining a building permit or certificate of occupancy.
3. Coverage under this endorsement applies only in response to the minimum requirements of the ordinance or law. Losses and costs incurred in complying with recommended actions or standards that exceed actual requirements are not covered under this endorsement.
4. Coverage under this endorsement applies only if the property damage that results in the requirement to comply with the ordinance or law is:
 - a. Caused only by a Cause of Loss covered under this policy; or
 - b. Caused by both a Cause of Loss covered under this policy and a Cause of Loss not covered under this policy, but only if the requirement to comply with the ordinance or law is based on the extent of property damage in its entirety.

But if the property damage that results in the requirement to comply with the ordinance or law is not covered under this policy, and such damage is the subject of the ordinance or law, there is no coverage under this endorsement, even if the property has also sustained covered direct physical damage.
5. If coverage applies under this endorsement based on the terms of Paragraph **B.4.b.** above, we will not pay the full amount of loss otherwise payable under the terms of Coverages **A**, **B**, and/or **C** of this endorsement. Instead, we will pay a proportion of such loss; meaning the proportion that the covered direct physical damage to the improvements and betterments bears to the total direct physical damage to the improvements and betterments.

(Paragraph **E.** of this endorsement provides an example of this procedure.)

However, if the covered direct physical damage, alone, would have resulted in a requirement to comply with the ordinance or law, then we will pay the full amount of loss otherwise payable under the terms of Coverages **A**, **B**, and/or **C** of this endorsement.

6. We will not pay under this endorsement for:
 - a. Enforcement of or compliance with any ordinance or law which requires the demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungus", wet or dry rot or bacteria; or
 - b. The costs associated with the enforcement of or compliance with any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungus", wet or dry rot or bacteria.
7. We will not pay under this endorsement for any loss in value or any cost incurred due to an ordinance or law that you were required to comply with before the time of the current loss, even in the absence of property damage, if you failed to comply.

C. Coverage

1. Coverage A – Coverage For Loss To The Undamaged Portion Of Tenant's Improvements And Betterments

We will pay under Coverage **A** for the loss in value of the undamaged portion of the improvements and betterments when:

- a. The improvements and betterments are damaged and the ordinance or law requires demolition of the undamaged parts of such property; or
- b. The undamaged improvements and betterments, or undamaged parts of the improvements and betterments, are demolished or damaged in the course of demolition or repair of the building or part of the building where such property is located, as a consequence of the ordinance or law. But we will not pay under Coverage **A** for undamaged improvements and betterments that could be removed from the building, without incurring damage to such improvements and betterments, prior to demolition or repair of the building.

Coverage **A** is included within the Limit Of Insurance applicable to the improvements and betterments as shown in the Declarations or addressed elsewhere in this policy. Coverage **A** does not increase the Limit of Insurance.

2. Coverage B – Demolition Cost Coverage

We will pay the cost to demolish and clear the site of undamaged parts of the improvements and betterments, provided that such cost is distinguishable from the cost of demolishing the building and you are responsible for the cost of demolition of the improvements and betterments, and further provided that:

- a. The improvements and betterments are damaged and the ordinance or law requires demolition of the undamaged parts of such property; or
- b. The undamaged improvements and betterments, or undamaged parts of the improvements and betterments, are demolished or damaged in the course of demolition or repair of the building or part of the building where such property is located, as a consequence of the ordinance or law. But we will not pay under Coverage **B** for demolition of undamaged improvements and betterments that could be removed from the building, without incurring damage to such improvements and betterments, prior to demolition or repair of the building.

The Coinsurance Additional Condition does not apply to Demolition Cost Coverage.

3. Coverage C – Increased Cost Of Construction Coverage

We will pay the increased cost to:

- a. Repair or reconstruct damaged portions of the improvements and betterments; and/or
- b. Reconstruct or remodel undamaged portions of the improvements and betterments, whether or not demolition is required;

when the increased cost is a consequence of a requirement to comply with the minimum standards of the ordinance or law.

However:

- a. This coverage applies only if the restored or remodeled property is intended for similar use as the current property, unless such use is not permitted by the ordinance or law.
- b. We will not pay for the increased cost of construction if the improvements and betterments are not repaired, reconstructed or remodeled.

The Coinsurance Additional Condition does not apply to Increased Cost Of Construction Coverage.

D. Loss Payment

1. We will not pay under this endorsement if others pay for loss or damage to improvements and betterments.
2. All following loss payment provisions, **D.3.** through **D.6.**, are subject to the apportionment procedures set forth in Paragraph **B.5.** of this endorsement.
3. When there is a loss in value of an undamaged portion of improvements and betterments to which Coverage **A** applies, the loss payment for that property, including damaged and undamaged portions, will be determined as follows:
 - a. If the Replacement Cost Coverage Option applies and the improvements and betterments are being repaired or replaced, on the same or another premises, we will not pay more than the lesser of:
 - (1) The amount you would actually spend to repair, rebuild or reconstruct such property, but not for more than the amount it would cost to restore the property on the same premises and to the same dimensions, style and comparable quality of the original property insured; or
 - (2) The Limit Of Insurance applicable to the improvements and betterments as shown in the Declarations or addressed elsewhere in this policy. (If this policy is endorsed to cover Earthquake and/or Flood as a Covered Cause of Loss, the Limit of Insurance applicable to the improvements and betterments in the event of damage by such Covered Cause of Loss may be lower than the Limit of Insurance that otherwise would apply.)
 - b. If the Replacement Cost Coverage Option does **not** apply and the improvements and betterments are being repaired or replaced, we will not pay more than the lesser of:
 - (1) The actual cash value of such property at the time of loss; or

- (2) The Limit Of Insurance applicable to the improvements and betterments as shown in the Declarations or addressed elsewhere in this policy. (If this policy is endorsed to cover Earthquake and/or Flood as a Covered Cause of Loss, the Limit of Insurance applicable to the improvements and betterments in the event of damage by such Covered Cause of Loss may be lower than the Limit of Insurance that otherwise would apply.)
- c. If the improvements and betterments are **not** repaired or replaced, we will not pay more than the lesser of:
- (1) A proportion of your original cost as set forth in the Valuation Loss Condition of this Coverage Form or Policy; or
 - (2) The Limit Of Insurance applicable to the improvements and betterments as shown in the Declarations or addressed elsewhere in this policy. (If this policy is endorsed to cover Earthquake and/or Flood as a Covered Cause of Loss, the Limit of Insurance applicable to the improvements and betterments in the event of damage by such Covered Cause of Loss may be lower than the Limit of Insurance that otherwise would apply.)
4. Unless Paragraph **D.6.** applies, loss payment under Coverage **B** – Demolition Cost Coverage will be determined as follows:
- We will not pay more than the lesser of the following:
- a. The amount you actually spend for demolishing the improvements and betterments and clearing the demolished property from the described premises; or
 - b. The applicable Limit Of Insurance shown for Coverage **B** in the Schedule.
5. Unless Paragraph **D.6.** applies, loss payment under Coverage **C** – Increased Cost Of Construction Coverage will be determined as follows:
- a. We will not pay under Coverage **C**:
 - (1) Until the improvements and betterments are actually repaired or replaced, at the same or another premises; and
 - (2) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.
 - b. If the improvements and betterments are repaired or replaced at the same premises, the most we will pay under Coverage **C** is the lesser of:
 - (1) The increased cost of construction of the improvements and betterments at the same premises; or
 - (2) The applicable Limit Of Insurance shown for Coverage **C** in the Schedule.
 - c. If you relocate to another premises, the most we will pay under Coverage **C** is the lesser of:
 - (1) The increased cost of construction of the improvements and betterments at the new premises; or
 - (2) The applicable Limit Of Insurance shown for Coverage **C** in the Schedule.
6. If a Combined Limit Of Insurance is shown for Coverages **B** and **C** in the Schedule, Paragraphs **D.4.** and **D.5.** do not apply with respect to the improvements and betterments that are subject to the Combined Limit, and the following loss payment provisions apply instead:
- The most we will pay, for the total of all covered losses for Demolition Cost and Increased Cost of Construction, is the Combined Limit Of Insurance shown for Coverages **B** and **C** in the Schedule. Subject to this Combined Limit of Insurance, the following loss payment provisions apply:
- a. For Demolition Cost, we will not pay more than the amount you actually spend for demolishing the improvements and betterments and clearing the demolished property from the described premises.
 - b. With respect to the Increased Cost of Construction:
 - (1) We will not pay for the increased cost of construction:
 - (a) Until the improvements and betterments are actually repaired or replaced, at the same or another premises; and
 - (b) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

- (2) If the improvements and betterments are repaired or replaced at the same premises, the most we will pay for the increased cost of construction is the increased cost of construction of the improvements and betterments at the same premises.
- (3) If you relocate to another premises, the most we will pay for the increased cost of construction is the increased cost of construction of the improvements and betterments at the new premises.

E. Example of proportionate loss payment for Ordinance Or Law Coverage Losses (procedure as set forth in Paragraph B.5.).

Assume:

- Wind is a Covered Cause of Loss; Flood is an excluded Cause of Loss
- The building has a value of \$1,000,000
- The improvements and betterments have a value of \$200,000
- Total direct physical damage to property: \$600,000 (\$100,000 attributable to improvements and betterments)
- The ordinance or law in this jurisdiction is enforced when building damage equals or exceeds 50% of the buildings value
- Portion of direct physical damage that is covered (caused by wind): \$120,000 (\$20,000 attributable to improvements and betterments)
- Portion of direct physical damage that is not covered (caused by flood): \$480,000 (\$80,000 attributable to improvements and betterments)
- Loss under Ordinance or Law Coverage C of this endorsement: \$50,000

Step 1: Determine the proportion that the covered direct physical damage bears to the total direct physical damage.

$$\$20,000 \div \$100,000 = .20$$

Step 2: Apply that proportion to the Ordinance or Law loss.

$$\$50,000 \times .20 = \$10,000$$

In this example, the most we will pay under this endorsement for the Coverage C loss is \$10,000, subject to the applicable Limit of Insurance and any other applicable conditions.

Note: The same procedure applies to losses under Coverages A and B of this endorsement.

F. The following definition if added:

"Fungus" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.

2. Valuation of Improvements and Betterments

- DOES NOT apply TO:

- Clarification

- WATCH OUT!

- Clarifies THAT THE UNDERLYING VALUATION CONDITION MUST BE MET if NOT REPLACED

3. Replacement Cost

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

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

- d. We will not pay on a replacement cost basis for any loss or damage:
 - (1) Until the lost or damaged property is actually repaired or replaced; and
 - (2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

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

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

3. Valuation of Improvements and Betterments

- ACTUAL CASH VALUE if REPAIRED PROMPTLY
- PROPORTION if NOT REPAIRED PROMPTLY
- RENEWAL option added, if you HAVE ONE
- NOTHING if OTHERS PAY

e. Tenant's Improvements and Betterments at:

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

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

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

Cost of Improvements = \$10,000
Term of Lease = 365 days
Date of Loss was 200 days into the lease

A. $\$10,000 \text{ (Cost)} \times 165 \text{ (Days Remaining)} = \$1,650,000$

B. $\$1,650,000 \div 365 \text{ Days (Term of lease)} = \$4,520.55$

F. Homeowners Form HO 00 04

- NOT LIMITED TO IMPROVEMENTS

10. Building Additions and Alterations. We cover under Coverage C the building improvements or installations, made or acquired at your expense, to that part of the "residence premises" used exclusively by you. The limit of liability for this coverage will not be more than 10% of the limit of liability that applies to Coverage C.

This is additional insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUILDING ADDITIONS AND ALTERATIONS

INCREASED LIMIT

FORM HO 00 04

SCHEDULE*

SECTION I – PROPERTY COVERAGES

C. Additional Coverages

10. Building Additions And Alterations

The limit of liability for this Building Additions And Alterations coverage is increased as noted below.

Increase In Limit Of Liability

Total Limit Of Liability

All other provisions of this policy apply.

* Entries may be left blank if shown elsewhere in this policy for this coverage.

- Homeowners rule 502
- Increases the 10% of Coverage C

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUILDING ADDITIONS AND ALTERATIONS OTHER RESIDENCE

SCHEDULE*

Location Of the Building And Limit Of Liability

* Entries may be left blank if shown elsewhere in this policy for this coverage.

SECTION I – PROPERTY COVERAGES

We cover, up to the limit of liability shown in the Schedule above, the additions, alterations and improvements, made or acquired at an “insured’s” expense, to that part of a building:

1. Which is rented to an “insured” as a residence; and

2. At the location shown in the Schedule.

We insure for direct physical loss to this property caused by a Peril Insured Against.

All other provisions of this policy apply.

- Homeowners rule 501
- Provides coverage at residences, other than the residence premises, rented to an insured

VII. Lease abatement

A. Historical problems

1. Common law

- a) In absence of an express statement or statute to the contrary, damage to leased property **does not** relieve the tenant from paying rent.

2. Statutes

- a) In absence of an express agreement, total or partial destruction from fortuitous events (such as acts of God) **relieve** the tenant from the responsibility to pay rent.

B. Lease examples

1. . . . in the event that the demised premises, or any part thereof, shall be destroyed or damaged by fire or other cause not occasioned by an act of the lessee, the reserved rental is to cease or be fairly apportioned according to whether such destruction is entire or partial.

2. If the building containing the demised premises should be destroyed by fire, earthquake, act of God or the elements during the term hereof, or damaged to such an extent it cannot be repaired within 30 working days, this lease shall terminate. If, however, the building is only partially destroyed by any of the above causes and the damage thereto can be repaired within the 30 day period, lessor shall with all reasonable dispatch, proceed to repair the building and place it in substantially the same condition as it was prior to the damage, and lessee shall pay rent to the lessor for the damaged premises should they be fit for occupancy during the time of repair. If the damaged premises are not fit for occupancy during the time of repair then the rental shall abate during such time.

3. In the event the demised premises, or the building in which the same are situated, are totally destroyed by the elements, or any other cause not resulting from the lessee's neglect or fault, or so nearly destroyed as to require rebuilding, during the term of this lease, then the rent shall be paid up to the time of such destruction and this lease shall thereupon terminate. In the event the demised premises, or the building in which the same are situated, are partially destroyed by the elements, or any other cause not resulting from lessee's neglect or fault, lessor with reasonable promptness and dispatch shall repair and rebuild the same within 60 days, and lessee shall pay rent during the period of repair or rebuilding in proportion that the portion of the premises occupied by lessee bears to the entire premises.

C. Types of problems created

1. Partial damage, and lease not terminated

a) Owner

(1) Loss of rents during repair

(a) Business Income Coverage (CP 00 30) or (CP 00 32)

(b) Business Income – Landlord As An Additional Insured (Rental Value) (CP 15 03)

(c) Dwelling Policy or Homeowners Policy

b) Tenant

(1) Additional rental costs and other expenses during repair

(a) Business Income Coverage (CP 00 30)

(b) Extra Expense Coverage (CP 00 50)

(c) Homeowners 4 (HO 00 04)

2. Lease terminated due to damage

a) Owner

(1) Loss of rental income

(a) Business Income Coverage (CP 00 30)

(b) Business Income – Landlord As An Additional Insured (Rental Value) (CP 15 03)

(c) Dwelling Policy or Homeowners Policy

b) Tenant

(1) New location – increased rent?

(a) Extra Expense Coverage – “Period of Restoration” only

(b) Leasehold Interest Coverage Form (CP 00 60)

(c) Homeowners 4 (HO 00 04)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS INCOME – LANDLORD AS ADDITIONAL INSURED (RENTAL VALUE)

This endorsement modifies insurance provided under the following:

BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM
BUSINESS INCOME (WITHOUT EXTRA EXPENSE) COVERAGE FORM

SCHEDULE

Description Of Rented Premises:			
Name Of Additional Insured:			
Mailing Address Of Additional Insured:			
Causes Of Loss Form	Applicable Business Income Coverage Form (Enter Form Number)	Limit Of Insurance	Coinsurance Percentage
		\$	%
Endorsements, If Any, Supplementing Or Restricting The Covered Causes Of Loss With Respect To The Coverage Provided Under This Endorsement:			
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.			

- A.** The person or entity identified in the Schedule is insured for loss of "Rental Value", up to the Limit of Insurance shown in the Schedule. Such coverage applies in accordance with all terms of Business Income – "Rental Value" Coverage under the applicable Business Income Coverage Form, and all conditions in the Common Policy Conditions and Commercial Property Conditions, except as otherwise provided in this endorsement or other applicable endorsement.
- B.** The Causes Of Loss Form shown in the Schedule applies to the coverage provided under this endorsement. Unless shown in the Schedule, endorsements which modify the Causes Of Loss Form do not apply to the coverage provided under this endorsement.
- C.** With respect to the coverage provided under this endorsement, the definition of "Rental Value" is replaced by the following:
"Rental Value" means the:
- 1.** Net income that would have been earned as rental income from tenant occupancy of the premises described in the Schedule, as furnished and equipped by the Additional Insured; and
 - 2.** Amount of continuing normal operating expenses which are the legal obligation of the tenant and which would otherwise be the Additional Insured's obligations.
- In Paragraphs **C.1.** and **C.2.** above, the terms tenant and tenant occupancy refer to the Named Insured under this policy, who is a tenant of the Additional Insured.

- D.** If this endorsement provides coverage in excess of the coverage or benefits required under the terms of the lease between the Named Insured and the Additional Insured, the most we will pay is the amount determined in accordance with the terms of the lease, but not more than the Limit of Insurance shown in the Schedule.
- E.** The following applies if this policy includes Business Income coverage for the interest of the Named Insured:
The amount of any payment made to the Additional Insured under the terms of this endorsement will be deducted from the Named Insured's Business Income loss and therefore will not be payable to the Named Insured as a continuing normal operating expense.
- F.** If we cancel this policy, we will provide advance notice in writing to the Additional Insured. The notice will be mailed to the Additional Insured at the last mailing address known to us, in the applicable timeframe specified in the policy's Cancellation Condition or any amendment to that Condition.
- G.** The following do not apply to the coverage provided under this endorsement:
- 1.** Extra Expense Coverage or Additional Coverage – Expenses To Reduce Loss;
 - 2.** Additional Coverage – Alterations And New Buildings;
 - 3.** Coverage Extension – Newly Acquired Locations; and
 - 4.** Optional Coverages.

D. Insurance Options

1. Leasehold Interest CP 00 60

- CANCELLATION of LEASE
- DIRECT LOSS
- COVERED CAUSE of LOSS

- BONUS PAYMENTS
- PAID TO ACQUIRE LEASE

- DAMAGED AND UNDAMAGED PROPERTY
- UNAMORTIZED PORTION
- NOT INCLUDING PORTION RECOVERABLE UNDER OTHER INSURANCE

- NON-REFUNDABLE RENT

A. COVERAGE

We will pay for loss of Covered Leasehold Interest you sustain due to the cancellation of your lease. The cancellation must result from direct physical loss of or damage to property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

1. Covered Leasehold Interest

Covered Leasehold Interest means the following for which an amount of "net leasehold interest" at inception is shown in the Leasehold Interest Coverage Schedule:

- b. Bonus Payments**, meaning the unamortized portion of a cash bonus that will not be refunded to you. A cash bonus is money you paid to acquire your lease. It does not include:

- (1) Rent, whether pr not prepaid; or
- (2) Security.

- c. Improvements and Betterments**, meaning the unamortized portion of payments made by you for improvements and betterments. It does not include the value of improvements and betterments recoverable under other insurance, but only to the extent of such other insurance.

Improvements and betterments are fixtures, alterations, installations or additions:

- (1) Made a part of the building or structure you occupy but do not own; and
- (2) You acquired or made at your expense but cannot legally remove.

- d. Prepaid Rent**, meaning the unamortized portion of any amount of advance rent you paid that will not be refunded to you. This does not include the customary rent due at:

- (1) The beginning of each month; or
- (2) Any other rental period.

a) *Monthly Leasehold Interest*

2. "Monthly Leasehold Interest" means the monthly portion of covered Bonus Payments, Improvements and Betterments and Prepaid Rent. To find your "monthly leasehold interest", divide your original costs of Bonus Payments, Improvements and Betterments or Prepaid Rent by the number of months left in your lease at the time of the expenditure.

Example:

Original cost of Bonus Payment	\$12,000
With 24 months left in the lease at time of Bonus Payment	÷ <u>24</u>
"Monthly Leasehold Interest"	\$500

b) *Net Leasehold Interest*

3. "Net Leasehold Interest":

b. Applicable to Bonus Payments, Improvements and Betterments or Prepaid Rent.

"Net leasehold Interest" means the unamortized amount shown in the Schedule. Your "net leasehold interest" at any time is your "monthly leasehold interest" times the number of months left in your lease.

Example:

"Monthly Leasehold Interest"	\$500
With 10 months left in lease	<u>x 10</u>
"Net leasehold Interest"	\$5,000

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LEASEHOLD INTEREST COVERAGE SCHEDULE

This endorsement provides supplementary information to be used with the following:

LEASEHOLD INTEREST COVERAGE FORM

Inception Date of Lease 01/01/15

Months Remaining at Inception 41

Expiration Date of Lease 12/31/24

% Interest 10

The Leasehold Interest Coverage Form applies to the items described below for which an amount of "Net Leasehold Interest" at inception is shown:

	"Gross Leasehold Interest"	"Monthly Leasehold Interest"	"Net Leasehold Interest" At Inception	Premium
Tenants Lease Interest	\$ _____ per month	xxxxx	\$ _____	\$ _____
Bonus Payments	xxxxx	\$ _____	\$ _____	\$ _____
Improvements and Betterments	xxxxx	\$ <u>500</u>	\$ <u>20,500</u>	\$ _____
Prepaid Rent	xxxxx	\$ _____	\$ _____	\$ _____
Total Covered Leasehold Interest			\$ <u>20,500</u>	\$ _____

2. Rents

a) Extra Expense Coverage Form CP 00 50

- ACTUAL AND NECESSARY EXPENSES
- DIRECT LOSS AT DESCRIBED PREMISES
- COVERED CAUSE OF LOSS
- ROUTES FOR TENANT TO GAIN ACCESS
- PERIOD OF RESTORATION ONLY
- AVOID OR MINIMIZE SUSPENSION
- DESCRIBED OR REPLACEMENT PREMISES
- MINIMIZE SUSPENSION IF YOU CAN'T CONTINUE
- REPAIR OR REPLACE PROPERTY TO THE EXTENT IT REDUCES THE LOSS

A. COVERAGE

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

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

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

1. Extra Expense

Extra Expense means necessary expenses you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property. Coverage pertains to expenses (other than the expense to repair or replace property) which are incurred to:

- a. To avoid or minimize the "suspension" of business and to continue "operations" at the described premises or at replacement premises or at temporary locations, including relocation expenses and costs to equip and operate the replacement location or temporary location.
- b. Minimize the suspension of business if you cannot continue "operations".

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

b) Leasehold Interest Coverage Form CP 00 60

- CANCELLATION of LEASE

A. COVERAGE

We will pay for loss of Covered Leasehold Interest you sustain due to the cancellation of your lease. The cancellation must result from direct physical loss of or damage to property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

1. Covered Leasehold Interest

Covered Leasehold Interest means the following for which an amount of "net leasehold interest" at inception is shown in the Leasehold Interest Coverage Schedule:

- a. Tenants' Lease Interest**, meaning the difference between the:

- (1) Rent you pay at the described premises; and
- (2) Rental value of the described premises that you lease.

- DIFFERENCE BETWEEN
- RENT YOU PAY
- RENTAL VALUE

c) Gross Leasehold Interest

- 1. "Gross Leasehold Interest"** means the difference between the:

- a.** Monthly rental value of the premises you lease; and
- b.** Actual monthly rent you pay including taxes, insurance, janitorial or other service that you pay for as part of the rent.

This amount is not changed:

- (1) Whether you occupy all or part of the premises; or
- (2) If you sublet the premises.

Example:

Rental value of your leased premises	\$5,000
Monthly rent including taxes, insurance, janitorial or other service that you pay for as part of the rent	<u>-\$4,000</u>
"Gross Leasehold Interest"	\$1,000

3. If loss occurs, coverage is for a future loss. The loss payment, however is paid today.
4. Because the payment is made in one lump sum, it could represent a significant financial advantage to the insured if they were to invest the money at the current interest rate. They would receive more money than the loss represented.
5. The amount of Leasehold Interest Insurance is "discounted" based on the interest factor table attached. If the insured invests the loss payment at the discount factor, they would end up even.

3. "Net Leasehold Interest":

a. Applicable to Tenant's Lease Interest:

"Net Leasehold Interest" means the present value of your "gross leasehold interest" for each remaining month of the term of the lease at the rate of interest shown in the Leasehold Interest Coverage Schedule.

The "net leasehold interest" is the amount that, placed at the rate of interest shown in the Leasehold Interest Coverage Schedule, would be equivalent to your receiving the "Gross Leasehold Interest" for each separate month of the unexpired term of the lease.

To find your "net leasehold interest" at any time, multiply your "gross leasehold interest" by the leasehold interest factors attached to this form.

Example:

(20 months left in the lease, 10% effective annual rate of interest)

"Gross Leasehold Interest"	\$1,000
Leasehold Interest Factor	x <u>18.419</u>
"Net Leasehold Interest"	\$18,419

6. Leasehold interest factor endorsements are available from 5% to 15%

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LEASEHOLD INTEREST COVERAGE SCHEDULE

This endorsement provides supplementary information to be used with the following:

LEASEHOLD INTEREST COVERAGE FORM

Inception Date of Lease 01/01/15

Months Remaining at Inception 41

Expiration Date of Lease 12/31/24

% Interest 10

The Leasehold Interest Coverage Form applies to the items described below for which an amount of "Net Leasehold Interest" at inception is shown:

	"Gross Leasehold Interest"	"Monthly Leasehold Interest"	"Net Leasehold Interest" At Inception	Premium
Tenants Lease Interest	\$ <u>5,000</u> per month	xxxxx	\$ <u>174,274</u>	\$ _____
Bonus Payments	xxxxx	\$ _____	\$ _____	\$ _____
Improvements and Betterments	xxxxx	\$ _____	\$ _____	\$ _____
Prepaid Rent	xxxxx	\$ _____	\$ _____	\$ _____
Total Covered Leasehold Interest			\$ <u>174,274</u>	\$ _____

ARRIVING AT THE AMOUNT OF LEASEHOLD INTEREST

Lease effective 01/01/15 to 12/31/24 (10 years or 120 months)

10,000 Square Feet	X .83 =	\$ 8,300	(Rental Value at date of loss @ \$10.00 per Square Foot)
	X .33 =	<u>\$ 3,300</u>	(Present Monthly Rent @ \$4.00 per Square Foot)
		\$ 5,000	(Net Leasehold Interest per month)

08/01/11 inception of policy	41 months left on lease	
	34.8548 (factor) X \$ 5,000 =	\$ 174,274

08/01/12 anniversary/expiration	29 months left on lease	
	25.7998 (factor) X \$ 5,000 =	<u>128,999</u>

\$ 303,273

\$ 303,273 divided by 2 = \$ 151,636.50 **Premium Basis**

VIII. Hold Harmless Agreements

A. Types

1. Limited

a) *For occurrences arising out of lessee's operations only.*

2. Intermediate

a) *For occurrences arising out of lessee's operations, excluding only the sole negligence of the lessor (covers joint negligence of lessee and lessor).*

3. Broad

a) *All occurrences, including the sole negligence of lessor.*

B. Examples

1. Lessee shall be liable for and hold Lessor harmless in respect of damage or injury to Lessor, premises, and property or persons of Lessor's other tenants, or anyone else, if due to act or neglect of Lessee, or anyone in his control or employ.

2. Lessee shall indemnify and save harmless Lessor from and against any and all loss, cost (including attorneys' fees), damages, expense and liability in connection with claims from damages as a result of injury or death of any person or property damage to any property sustained by Lessee and all other persons which arise from or in any manner grow out of any act or neglect on or about the Shopping Center by Lessee, Lessee's partners, agents, employees, customers, invitees, contractors and subcontractors.

3. Lessee waives all claims against Lessor for injuries to Lessee, his agents or invitees in or about said premises, and Lessee will hold Lessor exempt and harmless from any damage and injury to any such person, arising from the use of the premises by Lessee or from failure of the Lessee to keep the premises in good condition and repair as herein provided.

4. Lessee shall and does hereby agree to indemnify and save Lessor harmless from any and all liability arising out of the ownership, selection, processing, leasing, renting, operation, control, use, maintenance, delivery and return of the equipment.

C. Insurance Options

1. Homeowners Policy

- CONTRACTUAL FOR WRITTEN CONTRACTS

F. Coverage E – Personal Liability, does not apply to:

1. Liability:

- b. Under any contract or agreement entered into by an “insured”. However, this exclusion does not apply to written contracts:

(1) That directly relate to the ownership, maintenance or use of an “insured location”; or

(2) Where the liability of others is assumed by you prior to an “occurrence”;

unless excluded in (a) above or elsewhere in the policy.

2. Commercial General Liability Coverage Form CG 00 01/02

a) Contractual Exclusion

- CONTRACTUAL EXCLUSION

b. Contractual Liability

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

(1) That the insured would have in the absence of the contract or agreement; or

(2) Assumed in a contract or agreement that is an "insured contract" provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

(b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

- COVERS defined CONTRACTS

- DEFENSE

b) Definition of "Insured contract"

- LEASE of PREMISES
- EXCLUDING FIRE DAMAGE
- SIDETRACK AGREEMENT
- EASEMENT AGREEMENT
- MUNICIPAL AGREEMENT
- ELEVATOR MAINTENANCE AGREEMENT
- TORT liability ASSUMED
- DEFINITION of TORT liability ASSUMED

9. "Insured contract" means:

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

- *Exclusions* in Definition
- REMOVED with CG 24 17, CONTRACTUAL Liability, Railroads
- ARCHITECT, ENGINEER OR SURVEYOR
- PROFESSIONAL FOR ARCHITECT, ENGINEER OR SURVEYOR

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

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

States with Anti-Indemnification Statutes

Arizona	Indemnitor's negligence (public)	§ 34-226
California	Indemnitor's negligence	§ 2782 et seq. & § 2782.05
Colorado	Indemnitor's negligence	§ 13-50.5-102; 13-21-111.5
Connecticut	Indemnitor's negligence	§ 52-572k
Delaware	Indemnitor's negligence	Tit. 6, § 2704
Florida	Indemnitor's negligence (exceptions)	§ 725.06; 725.08
Illinois	Indemnitor's negligence	740 ILCS 35/1-3
Iowa	Void and Unenforceable	§ 537A.5
Kansas	Indemnitor's negligence	§ 16-121
Kentucky	Indemnitor's negligence	§ 371.180
Louisiana	Indemnitor's negligence	§ 2780.1
Minnesota	Indemnitor's negligence	§ 337.01 – .05
Mississippi	Indemnitor's negligence	§ 31-5-41
Missouri	Indemnitor's negligence	§ 434.100
Montana	Indemnitor's negligence	§ 28-2-2111
Nebraska	Indemnitor's negligence	§ 25-21.187
New Hampshire	Indemnitor's negligence	§ 338-A:1; 338-A:2
New Mexico	Indemnitor's negligence	§ 56-7-1
New York	Indemnitor's negligence	§ 5-322.1; 5-324
North Carolina	Indemnitor's negligence	§ 22B-1
North Dakota	Indemnitor's negligence	§ 9-08-02.1
Ohio	Indemnitor's negligence	§ 2305.31
Oklahoma	Indemnitor's negligence	Tit. 15, § 221
Oregon	Indemnitor's negligence	§ 30.140
Rhode Island	Indemnitor's negligence	§ 6-34-1
Texas	Indemnitor's negligence	151.101-105

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF INSURED CONTRACT DEFINITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Paragraph 9. of **Section VI – Definitions** is replaced by the following:

9. “Insured contract” means:

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

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

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

c) Pollution Exclusion

(1) Definition of Pollution

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

(2) Definition of Hostile Fire

7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

(3) Exclusion

- BI AND PD
EXCLUSION
- AT OR FROM THE
PREMISES
- BUILDING
EQUIPMENT
COVERAGE
- CONTRACTORS
COVERAGE
- HOSTILE FIRE
COVERAGE
- WASTE TREATMENT
SITE

f. Pollution

- (1)** "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants:
- (a)** At or from any premises, site or location which is or was at any time owned by or occupied by, or rented or loaned to, any insured; However, this subparagraph does not apply to:
- (i)** Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests.
- (ii)** "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
- (iii)** "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
- (b)** At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

Pollution Exclusion Continued

- TRANSPORTED, HANDLED PROCESSED, ETC.

- AT THE JOB SITE IF YOU ARE *WORKING* (PRODUCTS AND COMPLETED OPERATIONS COVERED)

- IF POLLUTANTS ARE *BROUGHT ON TO THE SITE*, EXCLUDED

- MOBILE EQUIPMENT EXCEPTION

- CONTRACTORS OPERATIONS VAPOR COVERAGE

- CONTRACTORS HOSTILE FIRE COVERAGE

- PROFESSIONAL CLEAN UP EXCLUSION

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

(i) Any insured; or

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

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

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

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

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

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

Pollution Exclusion Continued

- CLEAN UP
EXCLUSION

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

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

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

(4) Pollution Options

- (a) Pollution Liability Extension Endorsement (CG 04 22)
- (b) Limited Pollution Liability Extension Endorsement (CG 24 15)
- (c) Pollution Liability Coverage Form (CG 00 39)
- (d) Pollution Liability Limited Coverage Form (CG 00 40)
- (e) Total Pollution Exclusion Endorsement (CG 21 49)
- (f) Total Pollution Exclusion with Hostile Fire Exception (CG 21 55)
- (g) Total Pollution Exclusion With a Building Heating, Cooling and Dehumidifying Equipment Exception And A Hostile Fire Exception (CG 21 65)
- (h) Pollution Exclusion – Named Peril Limited Exception For A Short-Term Pollution Event (CG 04 28)
- (i) Pollution Exclusion – Limited Exclusion For A Short-Term Pollution Event (CG 04 29)
- (j) Pollution Exclusion – Limited Exception For Designated Pollutant(s) (CG 04 30)

d) Employee Contractual Exclusion

- EMPLOYERS liability

- CONSEQUENTIAL
bodily injury

- DUAL capacity

- ACTION OVER

- CONTRACTUAL
EXCEPTION

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:

(a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business; or

- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and

- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

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

e) Aircraft, auto, watercraft exclusion

- LOADING & UNLOADING EXCLUSION

- COVERS WATERCRAFT ON PREMISES
- COVERS NON-OWNED WATERCRAFT
 - LESS THAN 26 FEET
 - NOT USED FOR HIRE
- COVERS VALET PARKING
- COVERS AIRCRAFT & WATERCRAFT CONTRACTUAL
- COVERS OPERATION OF CERTAIN "AUTOS"

g. Aircraft, Auto or Watercraft

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

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

This exclusion does not apply to:

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

f) Personal Injury Exclusion

- LIABILITY ASSUMED UNDER CONTRACT

2. Exclusions.

This insurance does not apply to:

e. Contractual Liability

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITED CONTRACTUAL LIABILITY COVERAGE FOR PERSONAL AND ADVERTISING INJURY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated Contract Or Agreement:

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

- A.** With respect to the contract or agreement designated in the Schedule above, Subparagraph **e.** of Paragraph **2. Exclusion of Section I – Coverage B – Personal And Advertising Injury Liability** is replaced by the following:

2. Exclusions

This insurance does not apply to:

e. Contractual Liability

“Personal and advertising injury” for which the insured has assumed liability in a contract or agreement.

This exclusion does not apply to:

- (1)** Liability for damages that the insured would have in the absence of the contract or agreement; or

- (2)** Liability for “personal and advertising injury” if:

- (a)** The liability pertains to your business and is assumed in the designated contract or agreement shown in the Schedule in which you assume the tort liability of another. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- (b)** The “personal and advertising injury” occurs subsequent to the execution of the designated contract or agreement shown in the Schedule; and
- (c)** The “personal and advertising injury” arises out of the offenses of false arrest, detention or imprisonment.

Solely for the purposes of liability so assumed in such designated contract or agreement, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "personal injury" described in Paragraph **A.2.e.(2)(c)** above, provided:

- (i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same designated contract or agreement; and
- (ii) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

B. With respect to the contract or agreement designated in the Schedule above, the following is added to **Section I – Supplementary Payments – Coverages A And B:**

If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- 1. The "suit" against the indemnitee seeks damages for which the insured has assumed tort liability of the indemnitee in a designated contract or agreement shown in the Schedule, if such liability pertains to your business. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement;
- 2. This insurance applies to such liability assumed by the insured;
- 3. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same designated contract or agreement;
- 4. The allegations in the "suit" and the information we know about then offense are such that no conflict appears to exist between the interests of the insured and the indemnitee;

5. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

6. The indemnitee:

a. Agrees in writing to:

- (1) Cooperate with us in the investigation, settlement or defense of the "suit";
- (2) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
- (3) Notify any other insurer whose coverage is available to the indemnitee; and
- (4) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

b. Provides us with written authorization to:

- (1) Obtain records and other information related to the "suit"; and
- (2) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **A.2.e.(2)** of this endorsement, such payments will not be deemed to be damages for "personal and advertising injury" as described in Paragraph **A.2.e.(2)(c)** above and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys fees and necessary litigation expenses as Supplementary Payments ends when:

- 1. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- 2. The conditions set forth above, or the terms of the agreement described in Paragraph **6.** above, are no longer met.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION (FOR USE WHEN CONTRACTUAL LIABILITY COVERAGE IS NOT PROVIDES TO YOU IN THIS POLICY)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization (Additional Insured):		Location Of Covered Operations	
Bodily Injury And Property Damage Liability	Premium Basis Cost	Rates (Per \$1000 Of Cost)	Advance Premium
			\$
Total Advance Premium			\$

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

A. Who Is An Insured (Section II) is amended to include as an insured the person or organization (called "additional insured") shown in the Schedule but only with respect to liability arising out of:

1. Your ongoing operations performed for the additional insured(s) at the location designated above; or
2. Acts or omissions of the additional insured(s) in connection with their general supervision of such operations.

B. With respect to the insurance afforded to these additional insureds, the following additional provisions apply:

1. Exclusions **b., c., g., h.(1), j., k., l. and n.** under **Coverage A – Bodily Injury And Property Damage Liability (Section I – Coverages)** do not apply.

2. Additional Exclusions

This insurance does not apply to:

- a. "Bodily injury" or "property damage" for which the additional insured(s) are obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the additional insured(s) would have in the absence of the contract or agreement.
- b. "Bodily injury" or "property damage" occurring after:
 - (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or

(2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

c. "Bodily injury" or "property damage" arising out of any act or omission of the additional insured(s) or any of their "employees", other than the general supervision by the additional insured(s) of your ongoing operations performed for the additional insured(s).

d. "Property damage" to:

(1) Property owned, used or occupied by or rented to the additional insured(s);
(2) Property in the care, custody, or control of the additional insured(s) or over which the additional insured(s) are for any purpose exercising physical control; or

(3) Any work, including materials, parts or equipment furnished in connection with such work, which is performed for the additional insured(s) by you.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf.

In the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to “bodily injury” or “property damage” occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of covered operations has been completed; or
2. That portion of “your work” out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

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

SCHEDULE

Name of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

- A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury” or “property damage” caused, in whole or in part, by “your work” at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the “products-completed operations hazard”.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

- B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable limits of insurance;
- whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designation Of Premises (Part Leased To You):
Name Of Person(s) Or Organization(s) (Additional Insured):
Additional Premium: \$
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule but only with respect to liability or “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by you or those acting on your behalf in connection with the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:

1. Any “occurrence” which takes place after you cease to be a tenant in that premises.
2. Structural alterations, new construction or demolition operations performed by or on behalf of the person(s) or organization(s) shown in the Schedule.

However:

1. The insurance afforded to such additional insured only to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – LESSOR OF LEASED EQUIPMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Insured Person(s) Or Organization(s):

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

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

However:

1. The insurance afforded to such additional insured only to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any “occurrence” which takes place after the equipment lease expires.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS WHEN REQUIRED IN A WRITTEN CONSTRUCTION AGREEMENT WITH YOU

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However the insurance afforded to such additional insured:

1. Only to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. “Bodily injury”, “property damage” or “personal and advertising injury” arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others, by that insured, if the “occurrence” which caused the “bodily injury” or “property damage”, or the offense which caused the “personal and advertising injury”, involved the rendering of or the failure to render any professional,, architectural, engineering or surveying services.

2. "Bodily injury" or "property damage" occurring after:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of covered operations has been completed; or
- (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – AUTOMATIC STATUS FOR OTHER
PARTIES WHEN REQUIRED IN WRITTEN
CONSTRUCTION AGREEMENT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured:

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and
2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above.

Such person or organization is an additional insured only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured described in Paragraph 1. or 2. above.

However the insurance afforded to such additional insured:

- a. Only to the extent permitted by law; and
- b. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person’s or organization’s status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. “Bodily injury”, “property damage” or “personal and advertising injury” arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others, by that insured, if the “occurrence” which caused the “bodily injury” or “property damage”, or the offense which caused the “personal and advertising injury”, involved the rendering of or the failure to render any professional,, architectural, engineering or surveying services.

2. “Bodily injury” or “property damage” occurring after:
 - b. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of covered operations has been completed; or

b. That portion of “your work” out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement described in Paragraph **A.1.**; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – LESSOR OF LEASED EQUIPMENT – AUTOMATIC STATUS WHEN REQUIRED IN LEASE AGREEMENT WITH YOU

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. Section II – Who Is An Insured** is amended to include as an additional insured any person(s) or organization(s) for whom you lease equipment when you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as an additional insured on your policy. Such person(s) or organization(s) is an insured only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person’s or organization’s status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

- B.** With respect to the insurance afforded to these additional insureds, this insurance does not apply to any “occurrence” which takes place after the equipment lease expires.
- C.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement you have entered into with the additional insured; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – AUTOMATIC STATUS WHEN REQUIRED IN WRITTEN CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured any person(s) or organization(s) for whom you have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as an addition insured on your policy. Such person(s) or organization(s) is an additional insured only with respect to liability for:

1. "Bodily injury" or "property damage" not included in the "products-completed operations hazard"; or
2. "Personal and advertising injury";

caused by, in whole or in part, your acts or omissions or the acts or omissions of those acting on your behalf in the performance of your operations.

B. The insurance afforded to such additional insured described in Paragraph **A.** of this endorsement:

1. Only applies to the extent permitted by law; and
2. Will not be broader than any coverage requirement in a contract or agreement to provide for such additional insured.

C. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional service. This includes but is not limited to:

1. Legal, accounting or advertising services
2. Preparing, approving, or failing to prepare or approve, maps, drawings, opinions, reports, surveys, change orders, designs or specifications;

3. Inspection, supervision, quality control, architectural or engineering activities done by or for you on a project on which you serve as a construction manager;
4. Engineering services, including related supervisory or inspection services;
5. Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
6. Any health or therapeutic service treatment, advice or instruction;
7. Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement, or personal grooming or therapy;
8. Any service, treatment, advice or instruction relating to physical fitness, including service, treatment, advice or instruction in connection with diet, cardiovascular fitness, bodybuilding or physical training programs;
9. Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
10. Body piercing services;
11. Services in the practice of pharmacy;
12. Law enforcement or firefighting services; and
13. Handling, embalming, disposal, burial, cremation or disinterment of dead bodies.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

- D. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement described in Paragraph **A.**; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

SAMPLE

3. Other Insurance

4. Other Insurance

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

a. Primary Insurance

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

b. Excess Insurance

(1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work;"
 - (ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner ; or
 - (iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I – Coverage **A** – Bodily Injury and Property Damage Liability.
- (b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

- EXCESS OVER FIRE, BUILDERS RISK
- FIRE INSURANCE ON RENTED PREMISES
- LEGAL LIABILITY COVERAGE FORM
- MAINTENANCE OR USE OF AIRCRAFT, WATERCRAFT
- POLICY WHERE YOU ARE AN ADDITIONAL INSURED

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

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

The following is added to the **Other** Insurance Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

IX. Exculpatory Agreements

A. Requires the lessee to:

1. Assume any risk of loss to property:

- a) *Owned by the lessee*
- b) *In the lessee's care, custody or control*

2. Caused by:

- a) *Lessor and its employees, and/or*
- b) *Other persons*
- c) *Releases lessor from any harm caused by the lessee to the lessor*

B. Lease examples

1. Landlord shall not be liable for any damage to, or loss of such personal property arising from the leaking of the roof, or from the bursting, leaking or overflowing of water, sewer or steam pipes, or from heating or plumbing fixtures . . . or from any other cause whatsoever . . . the Tenant expressly agreeing to save the Landlord harmless in all such cases.

2. Lessor, its agents and employees shall not be liable for any loss, damage, injuries, or other casualty of whatsoever kind or by whomsoever caused, to the person or property of anyone (including the Lessee) on or off the premises, arising out of or resulting from the Lessee's use, possession or operation thereof, or from the installation, existence, use, maintenance, condition, repair, alteration, or removal of any equipment thereon, whether due in whole or in part to negligent acts or omissions of the Lessor, whether due in whole or in part to negligent acts or omissions of the Lessor, its agents or employees; and the Lessee for himself, his heirs, executors, administrators, successors and assigns, hereby agrees to indemnify and hold Lessor, its agents and employees, harmless from and against all claims for such loss, damage, injury or other casualty.

3. Lessee waives all claims against Lessor for damages to the goods, wares and merchandise in, upon or about the said premises.

C. Waiver of Subrogation

1. The lessee shall not be liable to the lessor for any damage or injury to the extent that the lessor's insurance provides compensation therefore.

2. WAIVER OF SUBROGATION. Each party hereto hereby waives any and every claim which arises or may arise in its favor and against the other party hereto during the term of this lease or any extension or renewal, for any and all loss of, or damage to, any of its property located within or upon, or constituting a part of, the premises leased to the Tenant, which loss or damage is covered by valid and collectible _____ insurance policies, to the extent that such loss or damage is recoverable under said policies.

D. Building and Personal Property Coverage Form

• CP 00 10

1. Exculpatory agreement is waiver of subrogation under the property form

2. Commercial Property Conditions CP 00 90

- ANY PERSON OR ORGANIZATION
- DO NOTHING AFTER LOSS TO IMPAIR RIGHTS
- PRIOR TO LOSS PERMITTED
- AFTER A LOSS
- TO SOMEONE INSURED BY THIS INSURANCE
- YOUR TENANT

I. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

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

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

This will not restrict your insurance.

E. Contractors Equipment Floater

- ANY AGREEMENT
- FROM ANYONE,
including
COMMON CARRIER

6. Any act or agreement by the Insured, prior or subsequent hereto, whereby any right of the Insured to recover the full value of, or amount of damage to, any property lost or injured and insured hereunder, from any carrier, bailee or other party liable therefor, is released, impaired or lost, shall render this policy null and void, but the right of the Company to retain or recover the premium shall not be affected.

- ANY AGREEMENT
- Bills of lading
ALRIGHT

5. **Impairment of Recovery Rights** If, by any act or agreement before or after a loss, you impair our right to recover from others liable for the loss, we will not pay you for that loss; nor will we pay you for any loss or damage that you settle or negotiate with others without our consent. You may, however, accept the usual bills of lading or shipping receipts limiting the liability of carriers.

F. Homeowners Policy

- PERMITTED BEFORE
A LOSS

F. **Subrogation.** An "insured" may waive in writing before a loss all rights of recovery against any person. If not waived, we may require an assignment of rights of recovery for a loss to the extent that payment is made by us.

If an assignment is sought, an "insured" must sign and deliver all related papers and cooperate with us.

Subrogation does not apply to Coverage F. or Paragraph C. Damage to Property of Others under Section II – Additional Coverages.

G. Commercial General Liability Form CG 00 01/02

- NOT PERMITTED
AFTER THE LOSS

8. Transfer Of Rights Of Recovery Against Others To Us

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

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