

SAMPLE

**California**  
**FAIR**  
**Plan** PROPERTY INSURANCE

CALIFORNIA FAIR PLAN ASSOCIATION  
3435 WILSHIRE BLVD., SUITE 1200  
LOS ANGELES, CA 90010  
(213) 487-0111

# STANDARD PROPERTY POLICY

COMMERCIAL POLICY

# COMMERCIAL PROPERTY POLICY

This policy is issued on behalf of those insurers that by law participate in the writings, expenses, profits and losses of the CALIFORNIA FAIR PLAN ASSOCIATION for the kind of risks insured against by this Policy. The names of such participating insurers, and the extent of their respective participations, are on file with, and may be obtained from, either the CALIFORNIA FAIR PLAN ASSOCIATION or the Insurance Commissioner of the State of California. The policy period as shown in the Declarations Page shall begin and end at 12:01 A.M. standard time at the location of property involved.

## AGREEMENT

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

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

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

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

### A. COVERAGE

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

#### 1. COVERED PROPERTY

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

- a. **Building**, meaning the building or structure described in the Declarations, including:
  - (1) Completed additions;
  - (2) Permanently installed:
    - (a) Fixtures;
    - (b) Machinery; and
    - (c) Equipment;
  - (3) Outdoor fixtures;
  - (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, alter-

ations or repairs to the building or structure.

- b. **Your Business Personal Property** located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises, consisting of the following unless otherwise specified in the Declarations or on the Your Business Personal Property – Separation of Coverage form:

- (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 a building or structure you occupy but do not own; and
  - (b) You acquired or made at your expense but cannot legally remove;
- (7) Leased personal property for which you have a contractual responsibility to insure, unless otherwise provided for under Personal Property of Others.

- c. **Personal Property of Others** that is:
  - (1) In your care, custody or control; and
  - (2) Located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises.

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

## 2. PROPERTY NOT COVERED

Covered Property does not include:

- a. Accounts, bills, currency, deeds, food stamps or other evidences of debt, money, notes or securities. Lottery tickets held for sale are not securities;
- b. Animals, unless owned by others and boarded by you, or if owned by you, only as "stock" while inside of buildings;
- c. Automobiles held for sale;
- d. Bridges, roadways, walks, patios or other paved surfaces;
- e. Contraband, or property in the course of illegal transportation or trade;
- f. The cost of excavations, grading, backfilling or filling;
- g. Foundations of buildings, structures, machinery or boilers if their foundations are below:
  - (1) The lowest basement floor; or
  - (2) The surface of the ground, if there is no basement;
- h. Land (including land on which the property is located), water, growing crops or lawns;
- i. Personal property while airborne or waterborne;
- j. Pilings, piers, wharves or docks;
- k. Property that is covered under another coverage form of this or any other policy in which it is more specifically described, except for the excess of the amount due (whether you can collect on it or not) from that other insurance;
- l. Retaining walls that are not part of the building described in the Declarations;
- m. Underground pipes, flues or drains;
- n. The cost to research, replace or restore the information on valuable papers and records, including those which exist on electronic or magnetic media, except as provided in the Coverage Extensions;
- o. Vehicles or self-propelled machines (including aircraft or watercraft) that:
  - (1) Are licensed for use on public roads; or
  - (2) Are operated principally away from the described premises.

This paragraph does not apply to:

- (a) Vehicles or self-propelled machines or

autos you manufacture, process or warehouse;

- (b) Vehicles or self-propelled machines other than autos, you hold for sale; or

- (c) Rowboats or canoes out of water at the described premises;

- p. The following property while outside of buildings:

- (1) Grain, hay, straw or other crops;

- (2) Fences, radio or television antennas, including their lead-in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants, (other than "stock" of trees, shrubs or plants) all except as provided in the Coverage Extensions.

## 3. COVERED CAUSES OF LOSS

- a. Fire.

- b. Lightning.

- c. Explosion, including the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass. This cause of loss does not include loss or damage by:

- (1) Rupture, bursting or operation of pressure relief devices; or

- (2) Rupture or bursting due to expansion or swelling of the contents of any building or structure, caused by or resulting from water.

The following COVERED CAUSES OF LOSS do not apply unless a premium is shown in the "PREMIUM" column of the Declarations for "EXTENDED COVERAGE".

- d. **Windstorm or Hail**, but not including:

- (1) Frost or cold weather;

- (2) Ice (other than hail), snow or sleet, whether driven by wind or not; or

- (3) Loss or damage to the interior of any building or structure, or the property inside the building or structure, caused by rain, snow, sand or dust, whether driven by wind or not, unless either:

- (a) The building or structure sustains wind or hail damage to its permanent roof or permanent walls through which the rain, snow, sand or dust enters or;

- (b) The building or structure sustains wind or hail damage to its temporary roof applied or temporary walls erected (after initial insured damage)

to protect the property from further damage in accordance with section F. LOSS CONDITIONS, item 3.a., and rain, snow, sand or dust enters.

- e. **Smoke** causing sudden and accidental loss or damage. This cause of loss does not include smoke from agricultural smudging or industrial operations.
- f. **Aircraft or Vehicles**, meaning only physical contact of an aircraft, a spacecraft, a self-propelled missile, a vehicle or an object thrown up by a vehicle with the described property or with the building or structure containing the described property.

This cause of loss includes loss or damage by objects falling from aircraft.

We will not pay for loss or damage caused by or resulting from vehicles you own or which are operated in the course of your business.

**g. Riot or Civil Commotion**, including:

- (1) Acts of striking employees while occupying the described premises; and
- (2) Looting occurring at the time and place of a riot or civil commotion.

**h. Sinkhole Collapse**, meaning loss or damage caused by the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:

- (1) The cost of filling sinkholes; or
- (2) Sinking or collapse of land into man-made underground cavities.

**i. Volcanic Action**, meaning direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (1) Airborne volcanic blast or airborne shock waves;
- (2) Ash, dust or particulate matter; or
- (3) Lava flow.

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

This cause of loss does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss or damage to the described property.

The following COVERED CAUSE OF LOSS does not apply unless the word "INCLUDED" is shown in the "PREMIUM" column of the Declarations for "VANDALISM":

**j. Vandalism**, meaning willful and malicious damage to, or destruction of, the described property.

We will not pay for loss or damage:

- (1) To glass (other than glass building blocks) that is part of a building, structure, or an outside sign; but we will pay for loss or damage to other property caused by or resulting from breakage of glass by vandals.
- (2) Caused by or resulting from theft, except for building damage caused by the breaking in or exiting of burglars.

The following COVERED CAUSE OF LOSS does not apply unless the word "INCLUDED" is shown in the "PREMIUM" column of the Declarations for "SPRINKLER LEAKAGE":

**k. Sprinkler Leakage**, meaning leakage or discharge of any substance from an Automatic Sprinkler System, including collapse of a tank that is part of the system.

If the building or structure containing the Automatic Sprinkler System is Covered Property, we will also pay the cost to:

- (1) Repair or replace damaged parts of the Automatic Sprinkler System if the damage:
  - (a) Results in sprinkler leakage; or
  - (b) Is directly caused by freezing.
- (2) Tear out and replace any part of the building or structure to repair damage to the Automatic Sprinkler System that has resulted in sprinkler leakage.

Automatic Sprinkler System means:

- (a) Any automatic fire protective or extinguishing system, including connected:
  - (i) Sprinklers and discharge nozzles;
  - (ii) Ducts, pipes, valves and fittings;
  - (iii) Tanks, their component parts and supports; and
  - (iv) Pumps and private fire protection mains.
- (b) When supplied from an automatic fire protective system:
  - (i) Non-automatic fire protective systems; and
  - (ii) Hydrants, standpipes and outlets.

#### 4. ADDITIONAL COVERAGES

**a. Debris Removal**

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

180 days of the date of direct physical loss or damage.

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

- (a) The amount we pay for the direct physical loss or damage to covered property; plus  
(b) The deductible in this policy applicable to that loss or damage. But this limitation does not apply to any additional debris removal limit provided in the Limits of Insurance section.

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

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

**b. Preservation of Property**

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

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

**c. Fire Department Service Charge**

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$1,000 for your liability for fire department service charges:

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

No Deductible applies to this Additional Coverage.

**d. Pollutant Clean Up and Removal**

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

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

performed in the course of extracting the "pollutants" from the land or water.

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

**5. COVERAGE EXTENSIONS**

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

The following Extensions apply only to property located in the "state" in which the described premises is located.

If a Coinsurance percentage of 80% or more is shown in the Declarations, you may extend the insurance provided by this policy as follows:

**a. Newly Acquired or Constructed Property**

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

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

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

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

The most we will pay for loss or damage under this Extension is 10% of the Limit of Insurance for Your Business Personal Property shown in the Declarations, but not more than \$100,000 at each building.

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

- (a) This policy expires;

- (b) 30 days expire after you acquire or begin to construct the property; or
  - (c) You report values to us.
- We will charge you additional premium for values reported from the date construction begins or you acquire the property.

**b. Personal 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 your employees. This extension does not apply to loss or damage by theft.
- (2) Personal property of others in your care, custody or control.

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

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

You may extend the insurance that applies to Your Business Personal Property to apply to your costs to research, replace or restore the lost information on lost or damaged valuable papers and records, including those which exist on electronic or magnetic media, for which duplicates do not exist. The most we will pay under this Extension is \$1,000 at each described premises.

**d. Property Off-Premises.**

You may extend the insurance provided by this Policy to apply to your Covered Property, other than "stock", that is temporarily at a location you do not own, lease or operate. This Extension does not apply to Covered Property:

- (1) In or on a vehicle;
- (2) In the care, custody or control of your salespersons; or
- (3) At any fair or exhibition.

The most we will pay for loss or damage under this Extension is \$5,000.

**e. Outdoor Property**

You may extend the insurance provided by this Policy to apply to your outdoor fences, radio and television antennas, signs (other than signs attached to buildings), trees, shrubs and plants, (other than "stock" of trees, shrubs or plants), including debris

removal expense, caused by or resulting from any of the following causes of loss if they are Covered Causes of Loss:

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

The most we will pay for loss or damage under this Extension is \$1,000, but not more than \$250 for any one tree, shrub or plant.

Each of these Extensions is additional insurance. The Additional Condition, Co-insurance, does not apply to these Extensions.

**B. EXCLUSIONS**

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

**a. Ordinance or Law**

The enforcement of any ordinance or law:

- (1) Regulating the construction, use or repair of any property, or
- (2) Requiring the tearing down of any property, including the cost of removing its debris.

**b. Earth Movement**

- (1) Any earth movement (other than sinkhole collapse, if sinkhole collapse is a Covered Cause of Loss), such as an earthquake, landslide or earth sinking, rising or shifting. But if loss or damage by fire or explosion results, we will pay for that resulting loss or damage.
- (2) Volcanic eruption, explosion or effusion. But if loss or damage by fire or volcanic action (if Volcanic Action is a Covered Cause of Loss) results, we will pay for that resulting loss or damage.

**c. Governmental Action**

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

**d. Nuclear Hazard**

Nuclear reaction or radiation, or radioactive contamination, however caused. But if loss or damage by fire results, we will pay for that resulting loss or damage.



**e. Power Failure**

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

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

**f. War and Military Action**

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**g. Water**

(1) Flood, surface water, waves, tides, tidal waves, overflow of any body of water, or their spray, all whether driven by wind or not;

(2) Mudslide or mudflow;

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

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

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

(b) Basements, whether paved or not; or

(c) Doors, windows or other openings. But if loss or damage by fire, explosion or sprinkler leakage (if sprinkler leakage is a Covered Cause of Loss) results, we will pay for that resulting loss or damage.

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

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

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

b. Rupture or bursting of water pipes (other than Automatic Sprinkler Systems if sprinkler leakage is a Covered Cause of Loss) unless caused by a Covered Cause of Loss.

c. Leakage or discharge of water or steam resulting from the breaking or cracking of

any part of a system or appliance containing water or steam (other than an Automatic Sprinkler System if sprinkler leakage is a Covered Cause of Loss), unless the system or appliance is damaged by a Covered Cause of Loss.

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

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

e. Mechanical breakdown, including rupture or bursting caused by centrifugal force.

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

**C. LIMITS OF INSURANCE**

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

The most we will pay for loss or damage to outdoor signs attached to buildings is \$1,000 per sign in any one occurrence.

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

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

1. Preservation of Property; or

2. Debris Removal; but if:

a. The sum of direct physical loss or damage and debris removal expense exceeds the Limit of Insurance; or

b. The debris removal expense exceeds the amount payable under the 25% limitation in the Debris Removal Additional Coverage; we will pay up to an additional \$5,000 for each location in any one occurrence under the Debris Removal Additional Coverage.

**D. DEDUCTIBLE**

We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds \$250, unless a higher deductible is shown in the Declarations or on an endorsement attached to this policy. We will then pay the amount of loss or damage in excess of the Deductible, up to the applicable Limit of Insurance, after any deduction required by the Coinsurance condition.

## **E. COMMON POLICY CONDITIONS**

### **1. CANCELLATION**

- a. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least 20 days before the effective date of cancellation, unless the reason for cancellation is non-payment of premium, in which event we may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least 10 days before effective date of cancellation.
- c. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- d. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- e. If the policy is cancelled, we will refund the premium for the period from the date of cancellation to the expiration date. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than the pro rata. The cancellation will be effective even if we have not made or offered a refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.

### **2. CHANGES**

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

### **3. EXAMINATION OF YOUR BOOKS AND RECORDS**

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

### **4. INSPECTIONS AND SURVEYS**

We have the right but are not obligated to:

- a. Make inspections and surveys at any time;
- b. Give you reports on the conditions we find; and
- c. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the

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

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

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

### **5. PREMIUMS**

The first Named Insured shown in the Declarations:

- a. Is responsible for the payment of all premiums.

### **6. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY**

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

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

## **F. LOSS CONDITIONS**

### **1. ABANDONMENT**

There can be no abandonment of any property to us.

### **2. APPRAISAL**

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

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

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



### 3. DUTIES IN THE EVENT OF LOSS OR DAMAGE

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

- (1) Notify the police if a law may have been broken.
- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
- (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
- (4) Take all reasonable steps to protect the Covered Property from further damage by a Covered Cause of Loss. If feasible, set the damaged property aside and in the best possible order for examination. Also keep a record of your expenses for emergency and temporary repairs for consideration in the settlement of the claim. This will not increase the Limit of Insurance.
- (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records. Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
- (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (8) Cooperate with us in the investigation or settlement of the claim.

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

### 4. INSURANCE UNDER TWO OR MORE COVERAGES

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

than the actual amount of the loss or damage.

### 5. LOSS PAYMENT

- a. In the event of loss or damage covered by this Policy, we will pay the value of the lost or damaged **Covered Property**.
- b. We will not pay you more than your financial interest in the **Covered Property**.
- c. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the **Covered Property**.
- d. In our sole and absolute discretion we may, but need not, elect to defend you against suits arising from claims of owners of property. If we elect to defend you, we will do so at our expense.
- e. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, if:
  - (1) You have complied with all the terms of this policy; and
  - (2) (a) We have reached agreement with you on the amount of loss; or
  - (b) An appraisal award has been made.

### 6. OTHER INSURANCE

- a. You may have other insurance subject to the same plan, terms, conditions and provisions as the insurance under this policy. If you do, we will pay our share of the covered loss or damage. Our share is the proportion that the applicable Limit of Insurance under this policy bears to the Limits of Insurance of all policies covering on the same basis.
- b. If there is other insurance covering the same loss or damage, other than that described in a. above, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not, but we will not pay more than the applicable Limit of Insurance.

### 7. RECOVERED PROPERTY

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

### 8. VACANCY

We will not pay for any loss or damage if the

building where loss or damage occurs has been "vacant" or "unoccupied" for more than:

- a. 30 consecutive days before that loss or damage if caused by Vandalism (if it is a Covered Cause of Loss); or
- b. 60 consecutive days before that loss or damage if caused by any other Covered Cause of Loss;

whether or not such vacancy or unoccupancy begins before the inception of this policy.

But we will pay if the building is "unoccupied" due to circumstances that are usual or incidental to the described occupancy.

This condition does not apply if the Vacancy Permit endorsement is attached.

Buildings under construction are not considered "vacant" or "unoccupied".

## 9. VALUATION

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

- a. Building (see paragraph a. of **Covered Property**) at actual cash value if the cost either to reconstruct or replace (whichever is more) the damaged Building exceeds its actual cash value before the loss or damage, otherwise the lower of the cost either to reconstruct or replace the damaged part of the Building, less a reasonable amount for depreciation.
- b. Except as provided in c., d., e. and f. below, your **Business Personal Property and Personal Property of Others** (see paragraphs b. and c. of **Covered Property**) at the lower of the cost either to reconstruct or replace the damaged part of the property, less a reasonable amount for depreciation.
- c. "Stock" you have sold but not delivered at the selling price less discounts and expenses you otherwise would have had.
- d. Glass, unless excluded, at the cost of replacement with safety glazing material if required by law.
- e. Tenant's Improvements and Betterments at the least of the following amounts:
  - (1) The lower of the cost either to reconstruct or replace the damaged part of the Tenant's Improvements and Betterments, less a reasonable amount for depreciation.
  - (2) A proportion of your original cost, determined as follows:
    - (a) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and

- (b) Divide the amount determined in (a) above by the number of days from the installation of improvements to the expiration of the lease.

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

- (3) Nothing if others pay for reconstruction or replacement.

- f. Valuable Papers and Records, including those which exist on electronic or magnetic media (other than prepackaged software programs) at the cost of:

- (1) Blank materials for reproducing the records; and
- (2) Labor to transcribe or copy the records when there is a duplicate.

## G. ADDITIONAL CONDITIONS

### 1. COINSURANCE

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

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

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

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

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

#### Example No. 1 (Underinsurance):

When:

The value of the property is	\$250,000
The Coinsurance percentage for it is	80%
The limit of insurance for it is	\$100,000
The Deductible is	\$250
The amount of loss is	\$40,000

Step (1):  $\$250,000 \times 80\% = \$200,000$   
 (the minimum amount of insurance to meet  
 your Coinsurance requirements)  
 Step (2):  $\$100,000 \div \$200,000 = .50$   
 Step (3):  $\$40,000 \times .50 = \$20,000$   
 Step (4):  $\$20,000 - \$250 = \$19,750$   
 We will pay no more than \$19,750. The remain-  
 ing \$20,250 is not covered.

**Example No. 2 (Adequate Insurance):**

When:

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

Step (1):  $\$250,000 \times 80\% = \$200,000$   
 (the minimum amount of insurance to meet  
 your Coinsurance requirements)  
 Step (2):  $\$200,000 \div \$200,000 = 1.00$   
 Step (3):  $\$40,000 \times 1.00 = \$40,000$   
 Step (4):  $\$40,000 - \$250 = \$39,750$   
 We will cover the \$39,750 loss in excess of the  
 Deductible. No penalty applies.

**2. CONCEALMENT, MISREPRESENTATION OR FRAUD**

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

- a. This Policy;
- b. The Covered Property;
- c. Your interest in the Covered Property; or
- d. A claim under this Policy.

**3. CONTROL OF PROPERTY**

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

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

**4. KNOWLEDGE OR CONTROL**

We will not pay for loss or damage while the chance of loss or damage is increased by any means within your knowledge or control.

**5. LEGAL ACTION AGAINST US**

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

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

**6. LIBERALIZATION**

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

**7. LOSS PAYEES**

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

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

All of the terms of this policy will then apply directly to the loss payee.

- e. 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 terms of this policy:

- (1) The loss payee's right under the mortgage will be transferred to us to the extent of the amount we pay; and
- (2) The loss payee's right 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 mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the loss payee at least 10 days

before the effective date of cancellation.

- g. If we elect not to renew this policy, we will give written notice to the loss payee at least 10 days before the expiration date of this policy.

#### 8. NO BENEFIT TO BAILEE

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

#### 9. POLICY PERIOD COVERAGE TERRITORY

Under this policy:

- a. We cover loss or damage commencing:
  - (1) During the policy period shown in the Declarations; and
  - (2) Within the coverage territory.
- b. The coverage territory in the "state" in which the premises described in the Declarations is located.

#### 10. TRANSFER TO US OF SALVAGE, RIGHTS OF RECOVERY AGAINST OTHERS

In the event of loss or damage, at our option, we may take as salvage any **Business Personal Property or Personal Property of Others** (see paragraphs b. and c. of **Covered Property**) the value of which we pay under this policy. If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights to such salvage and to recover such damages and must do nothing after loss to impair those rights. But you may waive your rights against another party in writing:

- a. Prior to a loss to your Covered Property.
- b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:
  - (1) Someone insured by this insurance.
  - (2) A business firm:

- a. Owned or controlled by you; or

- b. That owns or controls you; or

- (3) Your tenant.

This will not restrict your insurance.

#### H. DEFINITIONS

1. "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. "State" includes the District of Columbia and Puerto Rico.
3. "Stock" means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.
4. "Unoccupied" means containing contents pertaining to the occupancy of the building while operations or other customary activities are suspended.
5. "Vacant" means containing no contents pertaining to operations or activities customary to occupancy of the building.
6. Depreciation, when taken, will include exhaustion, wear and tear and obsolescence, will be measured as of the time of loss, and will be taken separately for each part of the lost or damaged property, not for any property taken as a whole.
7. "Reconstruct" includes repair and means to restore property to the same design, size and dimensions at the same location as it was before the loss, using materials identical in kind and quality.
8. "Replace" means to provide, at the same location, functionally equivalent, but not necessarily identical, property.
9. "Actual cash value" of property means its fair market value.

In WITNESS WHEREOF, this Association has executed and attested these presents; but this policy shall not be valid unless countersigned on the Declarations page by the California FAIR Plan Association at Los Angeles, California.

*Secretary, Governing Committee*

*Chairman, Governing Committee*