

# COMMERCIAL BUILDING POLICY

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## AGREEMENT

**We** will provide the insurance described in this policy in return for the premium and

**your** compliance with all provisions of this policy including endorsements.

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## REPRESENTATIONS

By accepting this policy **you** agree that:

1. The statements on the Declarations Page are accurate and complete.

2. Those statements are based upon representations **you** made to **us**.

3. **We** have issued this policy in reliance upon **your** representations.

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## CONCEALMENT, MISREPRESENTATION OR FRAUD

This policy shall be void if any insured whether before or after a loss, has intentionally concealed or misrepresented

any material fact or circumstance or made false statements or engaged in fraudulent conduct relating to this insurance.

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## DEFINITIONS

Words in bold print are defined herein.

1. In this policy **you** and **your** refer to the named insured shown on the Declarations Page. **We**, **us** and **our** refer to the Company providing this insurance.

2. **Accident** means an undesigned, unexpected and rapidly occurring event.

3. **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.

4. **Sinkhole collapse** means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or similar rock formations. It does not include sinking or collapse of land into manmade underground cavities nor the cost of filling sinkholes.

5. **Volcanic action** means lava flow, airborne shock waves, ash, dust or other particulate matter caused by or resulting from volcanic eruption.

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## LIMIT OF INSURANCE

Regardless of the number of persons insured under this policy, the most **we** will pay for any one loss is the applicable

limit of insurance shown herein or on the Declarations Page.

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## PROPERTY COVERED

We cover **your** structures, **your** business personal property used to maintain, service, repair or construct **your** structures and **your** business personal property furnished for the

use of **your** tenants all while situated at a location described on the Declarations Page.

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## LOSSES COVERED

Subject to the terms, conditions and limitations of this policy, **we** insure **you** against financial loss resulting from:

1. direct physical loss of or damage to covered property caused by an **accident**; and
2. the enforcement of any ordinance, law or code which prohibits repair of a covered structure damaged by an

**accident** and requires that any undamaged portion of the structure be demolished; and

3. rents including accrued rents which become uncollectible, and extra expense incurred to prevent loss of rents, because of damage to or destruction of covered structures caused by and **accident**.
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## ADDITIONAL COVERAGES

### 1. At a Named Location

When an **accident** causes direct physical loss of or damage to property at a location described on the Declarations Page, **we** provide the following additional amounts of coverage. The limit for each category below is the total limit for each covered loss as a result of any one **accident** for all property in that category. The coverages provided are subject to all other conditions of this policy:

**a. Your Employees Personal Property**

\$15,000 for personal property of **your** employees not to exceed \$1,000 for any one employee.

**b. Personal Property of Your Tenants**

\$25,000 for personal property of **your** tenants, not to exceed \$1,000 for any one tenant, which is in **your** care, custody or control and for which **you** are legally liable.

### 2. At a Location anywhere in the Continental United States of America or Canada

When an **accident** causes direct physical loss of or damage to property at a location anywhere in the continental United States of America or Canada, **we** provide the following additional amounts of coverage. The limit for each category below is the total limit for each covered loss as a result of any one **accident** for all property in that category. The coverages provided are subject to all other conditions of this policy:

**a. Newly Acquired Structures**

\$1,000,000 for structures, other than structures in the course of construction, **you** acquire during the policy period and which are not covered by other insurance. This coverage ceases ninety (90) days after the date **you** acquire the structures or at the expiration or cancellation date of this policy,

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whichever is first. An additional premium, computed by using the rates and rules in effect for such structures at the date of acquisition, will be charged for the period of time **we** provide coverage.

**b. Rents for Newly Acquired Structures**

\$200,000 for loss of rents, but not accrued rents, for newly acquired structures described in a. above. This coverage applies only if the **accident** causing damage to the structure occurs not more than ninety (90) days from the date **you** acquire the structures.

**c. Course of Construction**

\$1,000,000 for new buildings in the course of construction, including materials intended to become integral parts of such buildings, which are not covered by other insurance. This coverage does not apply to additions to or alterations of existing structures. This coverage ceases thirty (30) days after the first day on which any work is performed at the job site. An additional premium, computed by using the rates and rules in effect at that time for this coverage, will be charged for the period of time **we** provide coverage.

**d. Ordinance or Law Increased Cost of Construction and Resulting Loss of Rents**

\$100,000 in the aggregate for all of the following unless a greater limit of insurance for Ordinance or Law is shown on the Declarations Page:

- (1) any increase in the cost to repair or replace a damaged or destroyed covered structure which results from the enforcement of any ordinance, law or code regulating the use, repair or construction of that structure; and

- (2) any increase in the amount of loss of rents resulting from a delay caused by the enforcement of any ordinance, law or code regulating the use, repair or construction of the damaged or destroyed covered structure.

\$2,500 is the most **we** will pay because of the enforcement of any ordinance, law or code in effect at the time of the loss or damage which requires compliance even in the absence of damage to the structure.

This additional coverage applies only in the event that a covered structure is repaired or replaced at the same location.

**e. Debris Removal**

\$250,000 for increases in otherwise covered loss incurred to remove debris of covered property including the expense necessarily incurred to demolish and remove the debris of any undamaged portion of the damaged covered structure where such increased expenses are incurred because:

- (1) of the enforcement of any ordinance, law or code requiring that the undamaged portion of the damaged covered structure be demolished; or
- (2) it is not economical to repair the damaged covered structure.

**f. Trees, Shrubs and other Plants**

\$5,000 in the aggregate for **your** trees, shrubs and other plants not to exceed \$1,000 for any one tree, shrub or other plant.

**g. Fire Department Service Charges**

\$5,000 for fire department service charges for which **you** are liable when the fire department is called

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and responds to save or protect covered property.

**h. Fire Protection Devices Recharging Expense**

\$5,000 in the aggregate for expenses actually and necessarily incurred:

- (1) to recharge **your** fire protection devices; and
- (2) for which **you** are liable to the local water department for water discharged because of a fire by an automatic sprinkler system or fire hoses which are a permanent part of a covered structure.

**i. Your Business Personal Property and Business Personal Property of Others**

\$25,000 in the aggregate for:

- (1) **your** covered business personal property; and
- (2) business personal property of others in **your** care, custody or control and for which **you** are legally liable; and

that is used to maintain, service or repair covered structures. This coverage does not apply to personal property of **your** employees or tenants.

**j. Money, Money Orders, Checks, Travelers Checks and Stamps**

\$5,000 in the aggregate for money, money orders, checks, travelers checks and stamps all used in connection with the ownership or management of covered structures.

**k. Extraction of Pollutants**

\$25,000 for expenses necessarily incurred to extract **pollutants** from land or water at the location of a covered structure. **We** will pay these expenses only if reported to **us** in writing within one hundred eighty (180) days of the date of the **accident**. This limit of insurance is the most **we** will pay for all such expense incurred in any one twelve (12) month policy period.

**3. Consequential Rents**

\$100,000 for **your** loss of or reduction in rent resulting from an **accident** which causes direct physical loss of or damage to property not owned by **you** but which is situated within five hundred (500) feet of a location described on the Declarations Page. Coverage is provided subject to all other conditions of this policy.

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## DEDUCTIBLE

Subject to the applicable limit of insurance, **we** will pay no more than the amount by which any loss exceeds the deductible

amount shown on the Declarations Page. This provision applies to each separately occurring loss.

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## BASIS OF LOSS PAYMENT

Subject to the provisions contained in the LIMIT OF INSURANCE section and subject to all other terms and conditions of this policy the amount **we** will pay is calculated as follows:

1. Structures
  - a. If a damaged or totally destroyed structure is not repaired or replaced,

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payment will be limited to the loss of actual cash value at the time and place of loss with due consideration for depreciation from all sources however caused. Payment will not exceed the amount it would cost to repair or replace the damaged or totally destroyed structure with material of like kind, quality and use at the place of the loss and within a reasonable time after the loss.

- b. If a damaged structure is repaired or if a totally destroyed structure is replaced at the same location, payment will be limited to the amount actually and necessarily expended to repair the damaged structure or to replace the totally destroyed structure with a new structure of like kind, quality and use. Regardless of when **you** do complete repair or replacement the amount **we** will pay is limited to the amount required to repair or replace within a reasonable time after the loss.
- c. **You** may replace a totally destroyed structure by building a new structure elsewhere. If **you** do so, payment will be limited to the lesser of the following:
  - (1) the amount actually and necessarily expended to replace elsewhere within a reasonable time after the loss with a new structure of like kind, quality and use; or
  - (2) the amount that would be necessarily expended to replace within a reasonable time after the loss with a new structure of like kind, quality and use at the place of the loss.
- d. **You** may replace a totally destroyed structure by purchasing an existing structure elsewhere. If **you** do so, payment will be limited to the lesser

of the following:

- (1) the amount reasonably required and actually expended to purchase within a reasonable time after the loss a structure of like kind, quality and use as the structure totally destroyed; or
- (2) the amount that would be necessarily expended to replace within a reasonable time after the loss with a new structure of like kind, quality and use at the place of the loss.

In no event will **we** pay for the value of land.

**You** may first make claim for the loss under paragraph a. and, within one (1) year from the payment of that loss, make claim for any additional amount then payable by reason of b., c., or d.

## 2. **Your** Personal Property and Personal Property of **Your** Employees

- a. If lost or damaged property is not repaired or replaced, payment will be limited to the loss of actual cash value with due consideration for depreciation from all sources however caused. Payment will not exceed the amount which it would cost to repair or replace the lost or damaged property with property of like kind, quality and use.
- b. If lost or damaged property is repaired or replaced, payment will be limited to the amount actually and necessarily expended to repair or replace with new property of like kind, quality and use.

**You** may first make claim for the loss under paragraph a. and, within one (1) year from the payment of that loss, make claim for any additional amount then payable by reason of b.

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## 3. Trees, Shrubs and Other Plants

**We** will pay the amount actually and necessarily spent to replace lost or damaged trees, shrubs and other plants or, if not replaced, the amount actually and necessarily spent for removal of debris of such property.

## 4. Personal Property of Others, Except Employees

**We** will pay the amount for which **you** are legally liable.

## 5. Rents

**We** will pay:

- a. **your** net loss of rental income; and
- b. rents accrued but rendered uncollectible by reason of a covered loss at a location described on the Declarations Page; and
- c. **your** extra expenses necessarily incurred to minimize **your** rental income loss, but only to the extent that the rental income loss **we** would otherwise pay is reduced.

The amount **we** will pay is further limited as follows:

Time Periods for which Loss of Rents may be Covered

- a. If the damaged or totally destroyed property is not repaired or replaced, or if it is repaired or replaced at the same premises, **we** will pay for the time during which the property could

be repaired or replaced at the same location with property of like kind, quality and use with the exercise of due diligence and dispatch.

- b. If a covered structure is totally destroyed and is replaced elsewhere by the construction or purchase of another structure of like kind, quality and use, **we** will pay for the time during which the structure could be so replaced elsewhere not to exceed the time specified in a. above for the replacement of property at the same location.

- c. **We** will also pay **your** net, actual loss of rents which continues beyond the time required to repair or replace the property at the same location, for a period no greater than one hundred eighty (180) days, if:

- (1) the damaged or totally destroyed property is actually replaced with property of like kind, quality and use; and
- (2) repair or replacement is accomplished with the exercise of due diligence and dispatch; and
- (3) **you** have exercised and continue to exercise due diligence to minimize the loss of rents.

- d. In no event will **we** pay for more than twenty four (24) months of incurred net loss of rental income.

The period of time **we** use to determine **your** loss of rents is not limited by the expiration date of the policy.

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## PROPERTY NOT COVERED

**We** do not cover:

1. Land and land values.
2. Motor vehicles or trailers licensed for

road use including their equipment.

3. Watercraft.
4. Aircraft.

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- 5. Animals.
  - 6. Fur, fur garments, watches, jewelry, precious and semi-precious stones and precious metals, including silver.
  - 7. Money, money orders, checks, travelers checks and stamps except as provided for in 2. j. of the ADDITIONAL COVERAGES section.
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## LOSSES NOT COVERED

- 1. **We** do not insure **you** against loss of or damage to covered property resulting from or caused, directly or indirectly, proximately or remotely, by any of the following. Such loss or damage is not covered regardless of any **accident** that contributes concurrently or in any sequence to such loss or damage:
  - a. Earth movement other than **sinkhole collapse**. Earth movement includes earthquake, volcanic eruption, landslide, mudflow, subsidence and earth sinking, rising or shifting. If fire, explosion or **volcanic action** ensues **we** will be liable only for the ensuing direct loss or damage from the fire, explosion or **volcanic action**.
  - b. (1) Flood, overflow of any body of water, surface water, waves, tides, tidal waves or spray from any of them even if driven by wind; or  
(2) water that backs up or overflows from a sewer, drain or sump; or  
(3) underground water including water which presses on, flows or seeps through foundations, walls or floors or paved surfaces, or into unpaved basements.  
  
But if fire or explosion ensues **we** will be liable only for the ensuing direct loss or damage from the fire or explosion.
  - c. Insects, vermin or rodents unless fire or explosion ensues and then **we** will be liable only for the ensuing direct loss or damage from the fire or explosion.
  - d. Theft by **you**, **your** employee(s) or, with the exception of carriers for hire, by anyone to whom covered property is entrusted. Ensuing loss by fire or explosion resulting from theft by **your** employee(s) or by anyone to whom covered property is entrusted is covered.
  - e. Shortage disclosed on taking inventory or unexplained or mysterious disappearance of covered property, except covered property in the custody of a carrier for hire.
  - f. Pollution caused by or resulting from the presence of or the release, discharge, escape, dispersal, seepage or migration of **pollutants** unless the presence, release, discharge, escape, dispersal, seepage or migration is caused by or results from fire, lightning, explosion, windstorm, hail, aircraft, vehicles, riot or civil commotion, vandalism or malicious mischief, sprinkler leakage, falling objects, **volcanic action** or weight of snow, sleet or ice.
  - g. Error in design, plans or specifications; faulty or defective workmanship or materials; latent or patent defect; or mechanical breakdown. If loss from fire, explosion, sprinkler leakage, falling objects, weight of snow, sleet or ice or **accidental** discharge of water not otherwise excluded from a

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- plumbing, heating or air conditioning system which has cracked or broken apart ensues, **we** will pay for the ensuing loss. **We** will not, however, pay for the cost to correct the condition which causes such ensuing loss.
- h. War, including undeclared or civil war; 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; insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
  - i. Nuclear reaction or radiation, or radioactive contamination, however caused. But if nuclear reaction or radiation, or radioactive contamination results in fire, **we** will pay for the loss or damage caused by that fire.
2. In addition, **we** do not insure **you** against any of the following losses, however caused:
- a. Delay, loss of use, loss of market, loss of business income or other consequential loss. This exclusion does not apply to loss of rents including accrued rents and extra expense provided for elsewhere in this policy.
  - b. Wear and tear, deterioration, rust, mold, wet or dry rot unless fire, explosion or damage from water not otherwise excluded ensues and then **we** will be liable only for the ensuing direct loss or damage from the fire, explosion or water not otherwise excluded.
  - c. Settling, cracking, shrinking, bulging or expanding of covered structures unless fire, explosion or breakage of glass constituting an integral part of the structure ensues and then **we** will be liable only for the ensuing direct loss or damage from the fire, explosion or breakage of such glass.
  - d. Except as provided for in items 2.d. and 2.e. of the ADDITIONAL COVERAGES section of this policy, **we** will not pay for any of the following:
    - (1) any increase of the cost to repair or construct a replacement of a damaged or destroyed covered structures which results from the enforcement of any ordinance, law or code regulating the use, repair or construction of that structure;
    - (2) the cost or expense, including the cost or expense of debris removal, of demolishing any undamaged portion of any damaged covered structure whether or not required by any ordinance, law or code;
    - (3) any increase in the amount of loss of rents resulting from the enforcement of any ordinance, law or code that results in a delay of the time required to repair or replace the damaged or destroyed covered structure beyond the time that would be required in the absence of such enforcement of any ordinance, law or code.



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## YOUR DUTIES FOLLOWING A LOSS

1. **You** must at **your** expense:
    - a. Give **us** written notice of any loss as soon as practicable.
    - b. File with **us** a detailed sworn statement of loss within ninety (90) days after the loss unless this time is extended by **us** in writing, setting forth to the best of **your** knowledge and belief:
      - (1) The time and cause of loss.
      - (2) **Your** interest and that of all others in the property involved.
      - (3) Other policies of insurance that may cover the loss.
      - (4) Changes in title or occupancy of the property during the term of this policy.
      - (5) Specifications of any damaged structures, detailed estimates for repair of the damage and the amount **you** claim for the repair under this policy.
    - (6) The amount claimed for replacement of trees, shrubs and other plants or for the removal of debris of such property accompanied by all exhibits necessary to support that amount.
    - (7) An inventory of damaged, covered personal property and the amount **you** claim for that property under this policy accompanied by all exhibits necessary to support that amount.
    - (8) The amount claimed for rents including accrued rents and extra expenses accompanied by all exhibits necessary to support that amount.
  - c. Do all things and produce all documents reasonably required to establish values, loss and damage and coverage for the loss.
2. **You** must at **our** expense submit and subscribe to examinations under oath by any person named by **us**.

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## WAIVER OR CHANGE OF POLICY CONDITIONS

This policy contains all the agreements between **you** and **us** concerning this insurance. A waiver or change of any

provision of this policy must be in writing by **us** to be valid.

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## MANDATORY ARBITRATION

In case **we** fail to agree with **you** as to the meaning or effect of any provision of this policy or as to the amount payable in accordance with the express terms of this policy for any covered loss the disagreement shall be resolved by binding arbitration in accordance with the statutory rules and procedures of the state in which the property is located. Should an arbitration under the

terms of this clause result in any of the following, **we** will reimburse **you** for expenses actually incurred by **you** with respect to the arbitration, including reasonable attorney's fees, in a sum to be determined by the arbitrator(s):

1. a finding of coverage for claimed loss or damage for which coverage is denied by

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**us;**

2. a finding that **you** are entitled to a loss payment in accordance with the express terms of this policy and exclusive of costs or attorney's fees in an amount that exceeds the amount of any offer

made by **us** in writing to settle **your** claim at any time up to thirty (30) days prior to the commencement of the arbitration.

The provisions of this clause are mandatory and may be enforced either by **you** or by **us**.

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## COMPANY'S OPTION

**We** may at **our** option to take all, or any part, of the property at the agreed or appraised value or to repair or replace the property with other property of like kind and

quality within a reasonable time provided **we** give notice of **our** intention to do so within thirty (30) days after receipt of the required statement of loss.

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## TIME LIMITATION FOR ACTION

No suit, demand for arbitration or other action on this policy for the recovery of any claim shall be sustainable in any court or other forum unless all the requirements of

this policy have been complied with and unless commenced within twelve (12) months after the inception of the loss.

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## PROPERTY OF OTHERS

At **our** option **we** may adjust losses with the owner of the property. Any payment made by **us** shall be limited to the owner's financial interest in the lost or damaged property and shall satisfy **your** claim against **us**. If legal proceedings are taken to enforce

a claim against **you** for any such loss or damage, **we** reserve the right to conduct and control the defense on **your** behalf. No action by **us** in such regard shall increase **our** liability under this policy or increase the limits specified in this policy.

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## 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

(3) years after the cancellation or expiration of this policy whichever is first.

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## WHEN LOSS IS PAYABLE

The amount for which **we** are liable will be payable within thirty (30) days after the required statement of loss is received and

agreed to in writing by **us** or an arbitration award is received by **us**.

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## CANCELLATION AND NON-RENEWAL

1. **You** may cancel this policy at any time by returning it to **us** or by notifying **us** in writing of the date cancellation is to take effect.

Any pro-rata premium due **you** will be refunded within a reasonable time after the cancellation takes effect.

2. **We** may:
  - a. Cancel this policy for non-payment of premium by giving **you** fifteen (15) days written notice; or
  - b. Non-renew this policy for any

reason by giving **you** at least sixty (60) days, but not more than one hundred twenty (120) days, written notice to be effective at the next anniversary or expiration date of the policy whichever is first.

**We** will also mail such notice of cancellation or non-renewal to each mortgagee or other person or entity shown on this policy to have an insurable interest in the covered property.

**We** will state the reason for cancellation or non-renewal on the written notice.

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## MORTGAGEE INTEREST AND OBLIGATIONS

Loss will be payable to a mortgagee named on the Declarations Page subject to its mortgage interest in the covered property. As to that mortgage interest, this insurance shall not be affected by any:

1. Act or neglect of the mortgagor or owner of the covered property.
2. Foreclosure or other proceeding or notice of sale relating to the covered property.
3. Change in title or ownership of the covered property.

In case the mortgagor or owner neglect to pay any premium due under this policy, the mortgagee must, on demand, pay that premium.

If **you** fail to render a statement of loss, a named mortgagee, upon notice, may do so within sixty (60) days thereafter. In that event, the mortgagee must comply with all the provisions of this policy.

If **we** cancel this policy any named mortgagee will be notified in accordance with the cancellation provisions of this policy.

To the extent of any payment for loss under this policy which **we** make to any mortgagee and for which **we** claim **we** are not liable to the mortgagor or owner, **we** will be subrogated to all of the rights of the mortgagee under the mortgage. Or **we** may pay the whole mortgage debt including accrued interest in return for a full assignment and transfer of the mortgage and all other securities for that debt.

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## TIME OF LOSS

This policy applies only to losses which occur during the policy period shown on the

Declarations Page.

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## OTHER INSURANCE

**We** will not pay a greater portion of any loss than the limit of insurance for the loss under this policy bears to the total of the limits of insurance for the loss under all policies which cover the loss or which would cover

the loss but for the existence of this policy, except insurance written specifically to cover as excess over the limits of insurance that apply in this policy.

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## RECOVERY FROM THIRD PARTIES

1. **You** may waive **your** rights of recovery against any party in writing before an **accident**.
2. Within ninety (90) days after an **accident**, **you** may waive **your** rights of recovery against any party who at the time of the **accident** is:
  - a. Shown on the Declarations Page.
  - b. **Your** tenant.

- c. Owned or controlled by **you** because of **your** financial investment in that party.
- d. Owns or controls **you** because of financial investment in **you** by that party.

Subject to the above **we** may require an assignment of **your** rights of recovery against any party for loss to the extent that payment for that loss is made by **us**.

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## SALVAGE AND RECOVERY

**You** are entitled to complete reimbursement for loss before **we** are entitled to any proceeds from any recovery from third parties or salvage recovery. If a recovery is

realized, **you** must share recovery expenses **we** incur to the extent of each party's proportionate interest.

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## NO BENEFIT TO BAILEE

This insurance may not directly or indirectly

benefit any carrier or other bailee.