

**BUSINESS INTERRUPTION INSURANCE GROSS EARNINGS ENDORSEMENT FORM (Mercantile or Non-Manufacturing)** **402900 (11/98)**

**INDEMNITY AGREEMENT**

1. This Form insures, up to the amount stated in the Declarations, against loss directly resulting from necessary interruption of business caused by destruction or damage by the perils insured against, to building(s), structure(s), machinery, equipment or stock on the described premises.

**MEASURE OF RECOVERY**

2. The measure of recovery in the event of loss hereunder shall be the reduction in "gross earnings" directly resulting from such interruption of business less charges and expenses which do not necessarily continue during the interruption of business, for not exceeding such length of time as would be required with the exercise of due diligence and dispatch to rebuild, repair or replace such part of the described property as has been destroyed or damaged commencing with the date of such destruction or damage and not limited by the date of expiration of this Policy, but not exceeding the actual loss sustained by the Insured resulting from such interruption of business. Due consideration shall be given to the continuation of "normal" charges and expenses, including payroll to the extent necessary to resume operations of the Insured with the same quality of service which existed immediately preceding the destruction or damage by the perils insured against.

**CO-INSURANCE CLAUSE**

3. The Insurer shall not be liable, in the event of loss for a greater proportion thereof than the amount hereby insured bears to the percentage of the "gross earnings" as stated in the Declarations that would have been earned (had no loss occurred) during the twelve months immediately following the date of damage to or destruction of the described property.

**PAYROLL OPTIONS**

4. Clause (a) Ordinary Payroll -Limited Coverage or Clause (b) Ordinary Payroll Exclusion applies only if specified in the Policy Declarations.
  - a) Ordinary Payroll -Limited Coverage  
Limit of liability for "ordinary payroll expense" shall not exceed the amount stated in the Declarations, which amount is included in the blanket amount of the Policy and the liability of the Insurer for "ordinary payroll expense", is hereinafter defined, is limited to such expense which must necessarily continue during the interruption of business for not exceeding 90 consecutive calendar days immediately following the date of the damage to or destruction of the described property.  
The following Co-insurance Clause is substituted for Clause 3 of this Form:  
The Insurer shall not be liable, in the event of loss, for a greater proportion thereof than the amount hereby insured bears to 80% of the "gross earnings", less the entire "ordinary payroll expense" as hereinafter defined, that would have been earned (had no loss occurred) during the 12 (twelve) months immediately following the date of damage to or destruction of the described property, plus 80% of the "ordinary payroll expense", as hereinafter defined, that would have been earned (had no loss occurred) during the 90 day period specified above.
  - b) Ordinary Payroll Exclusion  
The Insurer shall not be liable for any "ordinary payroll expense" as hereinafter defined.  
The following Co-insurance Clause is substituted for Clause 3 of this Form:  
The Insurer shall not be liable, in the event of loss, for a greater proportion thereof than the amount hereby insured bears to 80% of the gross earnings" that would have been earned (had no loss occurred) during the 12 (twelve) months immediately following the date of damage to or destruction of the described property, less the same percentage of "ordinary payroll expense" for that 12 (twelve) month period.

**PREMIUM ADJUSTMENT**

5. If within 12 (twelve) months after the expiration of this Policy the Insured shall file with the Insurer a premium adjustment application form showing:
  - a) the total amount of insurance carried on "gross earnings" as defined herein, less the limit of liability on "ordinary payroll expense" if ordinary payroll option (a) is in effect, or "ordinary payroll expense" if ordinary payroll option (b) is in effect, during the annual term of this Policy and that such amount was not decreased during the said annual term; and
  - b) that 80% of "gross earnings" as defined herein, less "ordinary payroll expense" if payroll option (a) or (b) is in effect, certified by the Insured's Auditors as earned during the Insured's financial year most nearly concurrent with the annual term of the Policy was less than the total amount of insurance carried thereon,then the Insurer will allow in respect of its pro rata proportion of the difference a return of premium not exceeding 50% (25% if the co-insurance requirement is less than 80%, where eligible) of the premium paid by the Insured under this Form in respect of such "gross earnings" (less "ordinary payroll expense", if payroll option (a) or (b) is in effect).

In the event of loss originating within the term of this Policy, the premium for the full term of this Insurance on the full amount paid or payable for such loss shall be regarded as earned and no return premium shall be allowed in respect thereof.

The Insurer reserves the right to inspect the Insured's books, records and such policies as relate to this insurance for verification of any statement filed for the purpose of adjusting the premium of this insurance.

#### PERIOD OF INDEMNITY

6. The length of time of necessary interruption of business for which indemnity is payable is limited, in addition to those provisions set out in this Form, to a maximum of 12 (twelve) consecutive calendar months following the date of damage or destruction.

#### RESUMPTION OF OPERATIONS

7. It is a condition of this insurance that if the Insured could reduce the loss resulting from the interruption of business,

- a) by complete or partial resumption of operation of the property herein described, whether damaged or not, or
- b) by making use of "merchandise" or other property at the location(s) described herein or elsewhere, such reductions shall be taken into account in arriving at the amount of loss hereunder.

#### EXPENSES TO REDUCE LOSS

8. This Form also insures such expenses as are necessarily incurred for the purpose of reducing loss under this Form (except expense incurred to extinguish a fire), but in no event shall the aggregate of such expenses exceed the amount by which the loss under this Form is thereby reduced. Such expense shall not be subject to the application of the Co-insurance Clause.

#### MEDIA LIMITATION

9. With respect to loss resulting from damage to or destruction of media for, or programming records pertaining to, electronic data processing or electronically controlled equipment, including data thereon, by the peril(s) insured against, the length of time for which the Insurer shall be liable hereunder shall not exceed;

- a) 30 consecutive calendar days, or
- b) the length of time that would be required to rebuild, repair or replace such other property herein described as has been damaged or destroyed, whichever is the greater length of time.

#### INTERRUPTION BY CIVIL AUTHORITY

10. This Form is extended to include the actual loss as insured hereunder during the period of time, not exceeding two weeks, while access to the described premises is prohibited by order of civil authority, but only when such order is given as a direct result of damage to neighbouring premises by a peril insured against.

#### ADDITIONAL EXCLUSIONS

11. The Insurer shall not be liable for:

- a) any increase of loss directly or indirectly, proximately or remotely resulting from, or contributed to by, the operation of any by-law, ordinance or law regulating zoning or the demolition, repair or construction of buildings or structures, unless the liability is otherwise specifically assumed by endorsement hereon;
- b) any increase of loss caused by delays or loss of time due to the presence of strikers or other persons or to labour disturbances on or about the premises interfering with the rebuilding, repairing, or replacing the property damaged or destroyed or the resumption or continuation of business or free access to or control of the premises or due to the action of sympathetic strikers elsewhere;
- c) loss due to fines or damages for breach of contract for late or non-completion of orders, or for any penalties of whatever nature;
- d) loss due to the suspension, lapse, or cancellation of any lease or license, contract or order, which may affect the Insured's earnings after the period following any loss during which indemnity is payable.

#### WAIVER OF TERM OR CONDITION

12. No term or condition of this Policy shall be deemed to be waived by the Insurer in whole or in part unless the waiver is clearly expressed in writing signed by a person authorized for that purpose by the Insurer. Neither the Insurer nor the Insured shall be deemed to have waived any term or condition of this Policy by any act relating to the appraisal of the amount of loss or to the delivery and completion of proofs, or the investigation or adjustment of any claim under this Policy.

#### DEFINITIONS

13.a) "Gross earnings" are defined as the sum of:

- (i) Total net sales, and
- (ii) Other earnings derived from operations of the business,

less the cost of:

- (iii) Merchandise sold, including packaging materials therefor,
- (iv) Materials and supplies consumed directly in supplying the service(s) sold by the Insured, and
- (v) Service(s) purchased from outsiders (not employees of the Insured) for resale which do not continue under contract.

No other costs shall be deducted in determining "gross earnings".

In determining "gross earnings" due consideration shall be given to the experience of the business before the date of damage or destruction and the probable experience thereafter had no loss occurred.

- b) "Normal" : means the condition which would have existed had no loss occurred.
- c) "Ordinary Payroll Expense" : means the entire payroll expense for all employees of the Insured, except officers, executives, department managers, employees under contract and other important employees whose services would not be dispensed with should the business be interfered with or interrupted.

All other terms and conditions of this Policy remain unchanged.

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Special Risks Inc.  
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