

GILBERT & RENTON LLC  
23 Main Street  
Andover, Massachusetts 01810

Superfund Research Center

SITE: Wells 99.H

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OTHER: 282520

Robert J. Gilbert, Esq.  
Jeffrey B. Renton, Esq.  
Edward J. Denn, Esq.  
Stacy J. Silveira, Esq.

Telephone: (978) 475-7580  
Facsimile: (978) 475-1881

June 29, 2005



SDMS DocID 282320

By Federal Express

Susan Scott, Esq.  
Enforcement Counsel  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region 1  
One Congress Street (SES)  
Boston, MA 02114-2023

Re: 278-280 Salem Street, Woburn, Massachusetts; April 14, 2005 CERCLA  
RFIs Served Upon William Boutwell, Michael Boutwell and Grace Morse

Dear Susan:

Enclosed, please find the following:

1. Response to Requests for Information, executed by William Boutwell;
2. Response to Requests for Information, executed by Michael Boutwell;
3. Response to Requests for Information, executed by Grace Morse; and
4. Copies of responsive documents, Bates Nos. EPA0001-EPA0306.

As we have discussed, I have in my office is a box of old sales receipts and other such records of Cliff Boutwell's Aberjona Auto Parts, Inc. and/or Aberjona Auto Parts, Inc. Please let me know whether and how you might like to review these materials.

Thank you for your cooperation in this matter.

Very truly yours,

Jeffrey B. Renton

Encl.

cc: Clients

0097-0063



implication or responsibility, and is making no such admission.

6. William reserves the right to supplement his responses and objections as additional information is discovered or becomes available.

**DOCUMENTS PRODUCED HEREWITH; INCORPORATION BY  
REFERENCE**

The following documents thus far discovered, collectively, by William, Grace Morse and Michael Boutwell, as a result of their diligent searches, are being produced herewith, and are generally incorporated by reference to the responses herein.

1. RFI to Clifford Boutwell w/Response (Dec. 31, 1987), Bates Nos. EPA0001-.0013
2. Durable Power of Attorney (June 1, 1999), Bates No. EPA0014-0017
3. Permanent Decree of Guardianship (Oct. 14, 1998), Bates No. EPA0018
4. Trust Documents, Bates Nos. EPA0019-0064
5. Property Sale Closing Documents, Bates Nos. EPA0065-0153
6. Insurance Policies and Misc. Documents, Bastes Nos. EPA0154-0306
7. Bills of Automobile Sales and Similar Documents, available for inspection at Gilbert & Renton LLC, 23 Main Street, Andover, MA.

William will update this response, as appropriate, if further responsive, relevant and non-privileged documents are discovered.

**STATEMENT APPLICABLE TO ALL OF THE REQUESTS**

William is the son of Clifford Boutwell and Grace E. Boutwell (deceased). His sister is Grace Morse, and his son is Michael Boutwell.

1. William believes that his father (Clifford) incorporated Cliff Boutwell's Aberjona Auto Parts, Inc. ("CB-Aberjona") in or around 1966.
2. CB-Aberjona operated at 278-280 Salem Street, Woburn, Massachusetts (the "Property"). The Property included a residential home on the north side, which is where William

was raised, and his parents lived until becoming infirm in 1999 (mother) and 2001 (father).

3. William started working part-time at CB-Aberjona in or around 1966 (age 16), mostly dismantling cars. William remained at CB-Aberjona until 1989, taking over day-to-day management in or around 1970. William's mother (Grace) served as bookkeeper.

4. Early on, William started receiving annual transfers of stock in the company (typically, 5% per year) from his father (Clifford), until he eventually held all of the equity.

5. Grace Morse may have technically filled a spot as corporate clerk or secretary, but she had no day-to-day involvement in business operations, and she did not participate in corporate affairs. While Grace Morse may have signed some corporate documents – e.g., to confirm the stock transfers – William does not recall that she ever reviewed or sign the financial statements or tax returns.

6. In or around 1989, the assets of CB-Aberjona were sold to an unrelated company, Consolidated Auto Recyclers, Inc. and/or Consolidated Auto Recyclers of Massachusetts, Inc. (collectively, "Consolidated"), which took over operations at the Property. William believes the agreed-upon sales price was \$850,000, but that only \$100,000 was actually paid at the closing (which was promptly used to pay off accrued debts of CB-Aberjona). The next scheduled payment was for \$50,000, but Consolidated provided a bad check, and William believes no further payments were ever made. In or around 1992, Consolidated went bankrupt.

7. Following the sale to Consolidated, CB-Aberjona became a corporate shell, and William never returned to work at CB-Aberjona or the Property.

8. In connection with the bankruptcy of Consolidated, the assets remaining at the Property (e.g., auto parts, equipment, records) were given back to CB-Aberjona at no cost.

Thereafter, William's son (Michael) took over the business.

9. In or around 1996, CB-Aberjona entered into bankruptcy and subsequently dissolved. Thereafter, William believes that Michael formed Aberjona Auto Parts, Inc. ("Aberjona"), and that the assets of CB-Aberjona at the Property (e.g., auto parts, equipment, records) were transferred to Aberjona. William did not become a shareholder, officer or employee of Aberjona. William believes that Aberjona ceased operations in or around 1998, leaving whatever assets that remained at the Property.

10. William understands the Property was sold to Apache LLC, Robert Holland, and/or Holland Car Crushing, Inc., in or around 2001, along with any assets (e.g., auto parts, equipment, business records) that remained at the Property.

11. William has searched his home and/or office for business records of CB-Aberjona or Aberjona, and have found none. William believes that some business records were destroyed during floods from the Abejona River at the Property in the mid-1990s, and that all or most of the rest were transferred with the Property when it was sold in 2001.

## **RESPONSES TO SPECIFIC REQUESTS**

### **Ownership of Cliff Boutwell's Aberjona Auto Parts, Inc.**

#### **Request No. 1:**

Describe the nature of your ownership of Cliff Boutwell's Aberjona Auto Parts, including:

- a. the date that you became a co-owner of the company;
- b. your responsibilities as part owner;
- c. the date that you became the 100% owner/shareholder of the business;
- d. a description of your responsibilities as 100% Owner of the business; and
- e. copies of all agreements and other information documenting or related to your ownership interests.

Response to Request No. 1:

William objects to this Request as over-broad and vague, as assuming facts that have not been established, and calling for legal conclusions. Subject to and without waiving the foregoing or General Objections, William further responds as follows:

See Statement Applicable to All of the Requests.

(a) William believes he commenced receiving shares of stock in CB-Aberjona at a rate of about 5% per year in or prior to 1970.

(b) William believes he commenced assuming day-to-day management responsibility for CB-Aberjona in or around 1970.

(c) William believes he held all of the shares of CB-Aberjona by or around 1987.

(d) Same as 1(b).

(e) William does not believe he possesses documents responsive to this request.

Request No. 2:

In a 1994 Annual Report, Grace P. Morse is identified as the Clerk of Cliff Boutwell's Aberjona Auto Parts, Inc. Describe the nature of Ms. Morse's involvement in the operation of Cliff Boutwell's Aberjona Auto Parts, Inc.

Response to Request No. 2:

William objects to this request as vague, assuming facts not established, and as calling for a legal conclusion. Subject to and without waiving the foregoing or General Objections, William further responds as follows:

See Statement Applicable to All of the Requests. William does not believe Grace Morse had any "involvement in the operation of" CB-Aberjona.

Request No. 3:

Explain why Cliff Boutwell's Aberjona Auto Parts, Inc. was dissolved in 1998. Identify the individual(s) who was in charge of business operations at the time of dissolution.

Response to Request No. 3:

William objects to this request as vague and open-ended, and calling for legal conclusions. Subject to and without waiving the foregoing or the General Objections, William further responds as follows:

See Statement Applicable to All of the Requests. William believes CB-Aberjona entered bankruptcy in or around 1996, and was involuntarily dissolved in or around 1998. The reasons were the typical ones for business failure, including fewer dollars coming in than going out.

Request No. 4:

Describe how the assets of Cliff Boutwell's Aberjona Auto Parts, Inc. were distributed after dissolution, including:

- a. the name of each individual or other entity receiving a portion of the assets and a description of the assets received by each; and
- b. the current location of any remaining assets.

Response to Request No. 4:

William objects to this request as calling for legal conclusions, and as seeking information already in the public record. Subject to and without waiving the foregoing or General Objections, William further responds as follows:

See Statement Applicable to All of the Requests. William believes that the assets of CB-Aberjona at the time of bankruptcy mostly consisted of scrap automobiles, used auto parts and old business records, which remained at the Property until eventually passing to Aberjona.

Request No. 5:

Provide copies of the 1997 and 1998 Federal and State business income tax returns and financial statements for Cliff Boutwell's Aberjona Auto Parts, Inc. If you do not have copies of these forms, sign the enclosed Form 4506 release so EPA can obtain copies of the tax returns and financial statements.

Response to Request No. 5:

William objects to this Request as exceeding the scope of discoverable information, and because no Form 4506 was enclosed with the Requests. Subject to and without waiving the foregoing or General Objections, William further responds as follows:

William does not recall filing tax returns in those years, and believes that none were prepared as CB-Aberjona had ceased operating in or around 1996 after entering bankruptcy.

Request No. 6:

Identify the dates during which Michael Boutwell operated Aberjona Auto Parts, Inc. Provide the current address and phone number for Michael Boutwell.

Response to Request No. 6:

William objects to this Request as calling for a legal conclusion, assuming facts that have not been established, and because he was not a formally involved in Aberjona. Subject to and without waiving the foregoing or the General Objections, William further responds as follows:

See Statement Applicable to All of the Requests. William believes that Aberjona was formed and operated by Michael between 1996 and 1998. Michael currently resides at

REDACTED - PERSONAL PRIVACY

REDACTED - PERSONAL  
PRIVACY

Request No. 7:

Describe the relationship between Aberjona Auto Parts, Inc. operated by Michael Boutwell and Cliff Boutwell's Aberjona Auto Parts, Inc. operated by you and Clifford C. Boutwell.

Response to Request No. 7:

William objects to this Request as vague, as calling for legal conclusions, and as assuming facts not established. Subject to and without waiving the foregoing or the General Objections, William further responds as follows:

See Statement Applicable to All of the Requests. Other than familial ties and the consecutive use of the Property and assets, there was no relationship between CB-Aberjona and Aberjona. At the time of its bankruptcy, William held 100% of the stock of CB-Aberjona and was its last president, but he was never an Aberjona shareholder, officer or employee.

Request No. 8:

Describe how the proceeds from the sale of 278-280 Salem Street were distributed, including:

- a. the names and addresses of each individual or other entity receiving a portion of these sale proceeds and the percentage of the sale proceeds each received;
- b. the names and date of establishment of any trust that received a portion of these sale proceeds and the percentage of sale proceeds received by each trust;
- c. the individuals identified as Trustees and beneficiaries of any of the trusts identified above; and
- d. provide copies of the trust documents.

Response to Request No. 8:

William objects to this request as seeking private information not relevant to this proceeding. Subject to and without waiving the foregoing or General Objections, William further

responds as follows:

William was not involved with the sale of the Property, which was largely handled by his sister (Grace Morse). William understands that the sale proceeds were placed 50% into her father's bank account, and 50% into the bank account of Grace E. Boutwell Family Trust (the "Trust"). William further understands (1) that all of the funds placed into the father's bank account have since been spent, mostly on his nursing home and care which costs over \$88,000 per year, and (2) that \$128,854.89 presently remains in the bank account for the Trust, but that too is being dissipated for the nursing home and care of his father (as required by the terms of the Trust) at a rate of at least \$8,000 per month.

**Operation of Cliff Boutweel's Aberjona Auto Parts, Inc.**

**Request No. 1:**

Describe the drums, if any, that Cliff Boutwell's Aberjona Auto Parts, Inc. sent to the Whitney Barrel Company, Inc. for recycling/reclamation, including:

- a. the time period during which drums were sent;
- b. the types of drums sent;
- c. the names and chemical composition of the materials stored in the drums;
- d. the quantity of materials contained in the drums;
- e. the quantity of drums of each material sent; and
- f. information on any labels included on the drums.

**Response to Request No. 1:**

Subject to and without waiving the General Objections, William further responds as follows:

William does not believe that CB-Aberjona or Aberjona ever sent drums to Whitney Barrel Company, Inc. ("Whitney") for recycling or reclamation. William recalls that Whitney may

have provided at no cost some clean (empty) drums for use by CB-Aberjona.

Request No. 2.

Describe the drums, if any, the Cliff Boutwell's Aberjona Auto Parts, Inc. sent to Murphy's Waste Oil Service, Inc. for processing, including:

- a. the time period during which drums were sent;
- b. the types of drums sent;
- c. the names and chemical composition of the materials stored in the drums;
- d. the quantity of materials contained in the drums;
- e. the quantity of drums of each material sent; and
- f. information on any labels included on the drums.

Response to Request No. 2.

Subject to and without waiving the General Objections, William further responds as follows:

William does not believe that CB-Aberjona ever sent drums to Murphy's Waste Oil Service, Inc. for processing.

Request No. 3:

Identify any other drum/barrel processing or recycling facilities that Cliff Boutwell's Aberjona Auto Parts, Inc. sent drums to, including:

- a. the names and address of each facility;
- b. the types of drums/materials sent to each facility;
- c. the quantity of materials contained in the drums;
- d. the quantity of drums of each material sent to each facility; and
- e. information on any labels included on the drums.

Response to Request No. 3:

Subject to and without waiving the General Objections, William further responds as follows:

- (a) William believes that CB-Aberjona may have periodically arranged to have Cyn Oil, Stoughton, MA, collect drums containing unusable waste oil and/or used anti-freeze.
- (b) Waste oil and/or used anti-freeze
- (c) William believes they were 55 gal. drums.
- (d) William does not recall the total number of drums collected by Cyn Oil from CB-Aberjona over the years, but believes it may have exceeded 50 drums.
- (e) William believes the drums included a label with the words "Waste Oil."

Request No. 4

Describe the procedure for processing vehicles accepted at the facility, including:

- a. the types of fluids drained from the vehicles and the area(s) where these fluids were drained from the vehicles;
- b. the area(s) of facility where each fluid was collected/stored;
- c. the ultimate disposal location for each fluid, including the name of the transporter(s) used to haul each fluid;
- d. the area(s) where the vehicles were stored at the facility prior to and following processing; and
- e. provide copies of all documents that provide information and/or reference the acceptance of vehicles at the facility.

Response to Request No. 4:

William objects to this Request as vague, especially the word "facility," and to the extent information is sought about any entity other than CB-Aberjona. Subject to and without waiving the foregoing or General Objections, William further responds as follows:

After a vehicle arrived at the Property, it would be parked until ready for dismantling. The vehicle would then be moved to an inside dismantling bay. First, the gasoline tank would be "dropped," and the gasoline removed for reuse in company vehicles. Next, the engine and transmission would be removed, and the used engine oil and transmission fluid transferred into

drums (some of which may have been provided by Whitney Barrel) for recycling in the two waste oil burners at the Property or, if the waste oil was unsuitable for such use (e.g., because it had mixed with anti-freeze), collection by Cyn Oil. Next, the anti-freeze would be drained for use in vehicles, sale to third parties, or collection by Cyn Oil. Any incidental spillage would be absorbed with "Speedy Dry," which would then be placed in drums for collection by Cyn Oil (at least during the 1980s). Once these activities were completed, the vehicle would be returned to the outside parking areas where yet additional parts could be removed (e.g., tires, mirrors, seats, drums, radios, etc.) on an as-requested basis. Eventually, what remained of the vehicle would be collected for scrap metal recycling.

(a) Gasoline, waste oil and anti-freeze was generally removed in the dismantling bays and in the Engine Room/Back Garage.

(b) The fluids were initially collected/stored where removed, but then might be moved to other locations, including outside against the building, into trailers, next to the waste oil heaters, in the main sales area (north end of building close to sales counter). There also was a holding tank (perhaps 500 gals.) located in the Engine Room/Back Garage, as well as a oil/water separator protecting the sanitary sewer that would be periodically emptied by Cyn Oil.

(c) The great majority of fluids were recycled through reuse in company vehicles, sales to third parties (separately or as part of used vehicles), or use in the waste oil heaters. Limited off-site recycling or disposal also took place through Cyn Oil, and for a brief period of time during the 1980s, a company called Safety Clean (which may have been subsequently acquired by Clean Harbors, Inc.).

(d) Vehicles were stored throughout the Property, after entering through the gate on the left. There was an “upper lot” that was generally used to store vehicles prior to dismantling, and a “lower lot” or “back area” that was generally used thereafter.

(e) William has not located any documents responsive to this request.

Request No. 5:

Identify the individuals, including former employees, who were responsible for processing the vehicles that were accepted at the facility.

Response to Request No. 5:

William objects to this request as vague, calling for legal conclusions, and as seeking information that cannot be reliably provided absent employment or business records. Subject to and without waiving the foregoing or General Objections, William further responds as follows:

<u>Name</u>	<u>Residence</u>	<u>Duties</u>	<u>Approx. Years</u>	<u>Alive?</u>
Greg Stanton	Nashua, N.H.	Counter Sales	1996-97	Yes
Leonard (Ben) Leek		Dismantler/Mechanic	1946-?	No
Charles Locke				No
Herb Butland		Dismantler	1960s-1980s	No
John Casper	Burlington	Inventory control	1980s	Unk.
John Grady	Wilmington	Counter	1970s	Unk.
Randy Morse		Salesman (road)	1970s	No
Buddy Day	Woburn	Counter/Sales	1980s	Unk.
Norman Saunders	Wilmington or Tesksbury	Dismantler/Sales	1970s-89	Unk.
Jeff McKenzie	Ipswich or Essex	Dismantler	1980s	Unk.
Robert McNichol Peabody	Driver	1970s-80s	Unk.	
Vincent Grascia	Burlington	Dismantler	1980s	Unk.
George Hemingway	Burlington	Dismantler	1970s-80s	Unk.
Bobby Hemingway	Burlington	Mechanic	1960s	Unk.
Ray Chandonet	Lowell	Bookkeeper	1970s-80s	Unk.
Anna Callahan		Clerk	1970s-80s	No
Sheila Walsh	Woburn	Bookkeeper	1990-95	Unk.
Jim Gaudet	Lowell	Counter/Sales/Carpentry	1980s	Unk.

Request No. 6:

Describe the procedures for cleaning parts and equipment for resale, or for other purposes at the facility, including:

- a. the area(s) of the facility where parts and equipment were removed from the vehicles;
- b. the area(s) of the facility where parts and equipment were cleaned;
- c. the number and type of parts washer stations used (i.e., electric or manual pump; baths; rags or brushed used to clean parts);
- d. the names and chemical composition of each material used to clean the parts and equipment;
- e. the time periods during which each cleaning solution or material was used at the facility;
- f. the names and addresses of the vendors for each material;
- g. the area(s) where each material was stored at the facility (as a raw material);
- h. how and where spent solutions were collected and stored at the facility prior to disposal;
- i. How each material was disposed of, including the name(s) of the transporter(s) and final disposal location(s) for each material;
- j. the names of any spent cleaning solutions or materials that were placed in floor drains, the septic or sewer system, on an evaporation pad, or disposed of on the ground surface (including drainage trenches) and the frequency of each type of disposal;
- k. the employees or other individuals who were responsible for cleaning the parts and equipment, including each individual's responsibilities and the time periods each individual was responsible for those operations; and
- l. Provide copies of all documents that provide information and/or reference these part and equipment cleaning operations.

Response to Request No. 6:

William objects to this request as vague, calling for legal conclusions, and seeking information that cannot be reliably provided without employment or business records. Subject to and without waiving the foregoing or the General Objections, William further responds as follows:

(h) See (b), (d) and (g), above.

(i) See (b), (d) and (g), above.

(j) CB-Aberjona did not dispose of “spent cleaning solution or materials” through the use of an evaporation pad, septic system, or ground disposal (in drainage trenches or otherwise). Insofar as fluids may have sometimes entered a floor drain, they collected in the oil/water separator, which was periodically emptied by Cyn Oil.

(k) See Response to Request No. 5, above.

(l) William has not located any documents responsive to this request.

**Grace E. Boutwell Revocable Trust**

Request No. 1:

Describe the terms of the Grace E. Boutwell Revocable Trust of January 26, 1990 (“Trust”). Identify the Trustees and beneficiaries of this Trust. Identify all the property included in the Trust. Provide a copy of the Trust.

Response to Request No. 1:

William objects to this Request as over-broad and intruding into private family matters that are not relevant to this proceeding. Subject to and without waiving the foregoing or General Objections, William further responds as follows:

See Trust Documents, Bates Nos. <sup>EM0019-</sup>2064, which speak for themselves.

Request No. 2:

Describe the revocation of the Trust, if any, including:

- a. the date the Trust was revoked;
- b. how the assets of the Trust were distributed; and
- c. the current location and value of each asset.

Response to Request No. 2:

William objects to this Request as over-broad and intruding into private family matters not relevant to this proceeding, and as assuming facts that have not been established. Subject to and without waiving the foregoing or General Objections, William further responds as follows:

William has no knowledge that the Trust has been revoked. As for the assets, see Response to the Request No. 8 [**“Ownership of Cliff Boutwell’s Aberjona Auto Parts, Inc.”**].

**Other Businesses**

Request No. 1:

Describe the nature of Imports Unlimited, Inc.’s operations, including:

- a. the dates during which this business operated;
- b. the dates during which this business operated at 280 Salem Street, Woburn, MA, the specific area(s) of the facility where the business operated, and the operations that took place in each of these areas;
- c. any other locations where the business operated and the dates the business operated at each location;
- d. the number of employees the business had;
- e. the names addressed, and dates of employment for each employee;
- f. the names, addresses, and dates of service of all directors and officers.
- g. the raw materials that were used in the operations.
- h. the procedures and materials used to clean and maintain any equipment and machinery;
- i. the wastes, if any, generated by the business operations; and
- j. the method of collecting and disposing of each waste, including the names of all waste transporters and the location of final disposal of each waste.

Response to Request No. 1:

William objects to this request as seeking legal conclusions. Subject to and without waiving the foregoing or the General Objections, William further responds as follows:

(a) In the 1980s, William formed Imports Unlimited, Inc. (“IUI”) with the idea of importing automobile engines from Japan, and selling them for a profit out of the building at the

Property. In fact, he only ever imported a single shipment containing approximately 30 to 50 engines, and the business failed.

(b) The engines were stored in the Front Garage. Eventually, half of the engines were sold, and the other half were scrapped.

(c) There was none.

(d) There were none (only William).

(e) N/A.

(f) There were none (only William).

(g) There was none.

(h) The engines arrived clean, and were not further cleaned at the Property.

(i) There was none.

(j) N/A.

Request No. 2:

Provide copies of any leases concerning Import Unlimited, Inc.'s operations at the facility.

Response to Request No. 2:

William objects to this request as assuming facts not established. Subject to and without waiving the foregoing or General Objections, William further responds as follows:

William believes there was no written lease.

Request No. 3:

Identify all persons who had ownership interests in Imports Unlimited, Inc. and the amount of ownership each person held.

Response to Request No. 3:

Subject to and without waiving the General Objections, William further responds as follows:

William was the only owner of IUI.

Request No. 4:

Provide copies of the 1989 and 1990 Federal and State business tax returns and financial statements for Imports Unlimited, Inc. If you do not have copies of these forms sign the enclosed Form 4506 release so EPA can obtain copies of the tax returns and financial statements.

Response to Request No. 4:

William objects to this Request as exceeding the scope of discoverable information, and because no Form 4506 was enclosed with the Requests. Subject to and without waiving the foregoing or General Objections, William further responds as follows:

William has not found any documents responsive to this Request, and does not believe that tax returns or financial statements were prepared by IUI for those years, as the company lost money on its one prior venture, and was not actively operated during those years.

Request No. 5:

Please describe the corporate or business relationship between Imports Unlimited, Inc. and Cliff Boutwell's Aberjona Auto Parts, Inc.

Response to Request No. 5:

William objects to this Request as calling for legal conclusions, and as assuming facts not established. Subject to and without waiving the foregoing or the General Objections, William further responds as follows:

None, except that IUI used space in the building at the Property where CB-Aberjona also

operated.

**General Questions**

**Request No. 1:**

If you have information concerning operations of Aberjona Auto Parts, Inc., Cliff Boutwell's Aberjona Auto Parts, Inc., or other business operations at the facility, or the source, content, or quantity of materials placed/disposed of at the facility which is not included in the information you have already provided, provide all such information.

**Response to Request No. 1:**

William objects to this question as over broad and vague, including as to the terms "operations," "other business operations," "materials," and "placed." William also objects that no time frame is provided for the question. Subject to the foregoing and the General Objections, William further responds as follows:

William has no further documents or knowledge responsive to this Request.

**Request No. 2:**

If not already included in your response, if you have reason to believe that there may be persons, including persons currently or formerly employed by Clifford C. Boutwell, William E. Boutwell, or Michael Boutwell who are able to provide a more detailed or complete response to any of these questions or who may be able to provide additional responsive information or documents, identify such persons and the additional information or documents that they might have.

**Response to Request No. 2:**

William object to this Request as over broad and vague. Subject to and without waiving the foregoing or the General Objections, William further responds as follows:

William has no further documents or knowledge responsive to this Request.

Request No. 3:

If not already provided, identify all persons, including the current and former employees of Clifford C. Boutwell, William E. Boutwell, or Michael Boutwell who have knowledge or information about the generation, use, purchase, treatment, storage, disposal, placement or other handling of materials at, or transportation of materials to, the facility.

Response to Request No. 3:

William objects to this Request as over broad and vague, and as seeking information that cannot be accurately provided without the relevant business records. Subject to and without waiving the foregoing or the General Objections, William further responds as follows:

William has no further documents or knowledge responsive to this Request.

Request No. 4:

Describe all sources reviewed or consulted in responding to this request, including but not limited to:

- a. the names of, and contact information for, all individuals consulted;
- b. the current job title and job description of each individual consulted;
- c. the job title and job description during the period being investigated for each individual consulted;
- d. whether each individual consulted is a current or past employee of Clifford C. Boutwell, William E. Boutwell, or Michael Boutwell;
- e. the names of all companies, divisions or offices for Clifford C. Boutwell, William E. Boutwell or Michael Boutwell for which records were reviewed;
- f. the nature of all documents reviewed;
- g. the locations where those documents reviewed were kept prior to review; and
- h. the location where those documents reviewed are currently kept.

Response to Request No. 4:

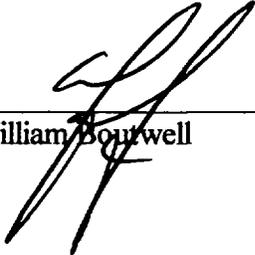
William objects to this Request as over broad, and as intruding upon attorney-client privileged communications, and as seeking attorney work-product. Subject to the foregoing and General Objections, William further responds as follows:

William spoke with Grace Morse and Michael Boutwell, and also searched his office and home for responsive documents.

\* \* \*

I declare under penalty of perjury that I am authorized to respond on behalf of William Boutwell, and the foregoing is complete, true and correct.

Executed: June 27, 2005

  
\_\_\_\_\_  
William Boutwell

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I (NEW ENGLAND)**

MICHAEL BOUTWELL,  
**Respondent.**

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**RESPONSE TO REQUESTS FOR INFORMATION**

Michael Boutwell (“Michael”) hereby responds to the requests for information (the “Requests”) by the United States Environmental Protection Agency (“EPA”), pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9604(3), served under cover of letter dated April 14, 2005.

**GENERAL OBJECTIONS**

1. Michael objects to the Requests to the extent they seek information or documents in excess of EPA’s legal authority.
2. Michael objects to the Requests to the extent they seek information protected from discovery by the attorney-client privilege, or any other privilege or exemption.
3. Michael objects to the Requests to the extent they (i) are overly broad and unduly burdensome, (ii) seek information not described with reasonable particularity, (iii) are vague and confusing, and/or (iv) seek irrelevant information.
4. Michael objects to the Requests to the extent they require him to provide information (i) that is not within his possession or control, (ii) that is in the possession or control of EPA, and/or (iii) is in the public domain.
5. Michael objects to the Requests to the extent they imply unlawful conduct by him or anyone for whom he might be held responsible, or try to get him to admit to any such unlawful conduct, and he specifically states that by responding to the Requests he is accepting no such

implication or responsibility, and is making no such admission.

6. Michael reserves the right to supplement his responses and objections as additional information is discovered or becomes available.

### **DOCUMENTS PRODUCED HERewith; INCORPORATION BY REFERENCE**

The following documents thus far discovered by Michael, William Boutwell and Grace Morse, as a result of their diligent searches, are being produced herewith, and are generally incorporated by reference to the responses herein.

1. RFI to CB-Aberjona w/Response (Dec. 31, 1987), Bates Nos. EPA0001-13.
2. Durable Power of Attorney (June 1, 1999), Bates No. EPA0014-17.
3. Permanent Decree of Guardianship (Oct. 14, 1998), Bates No. EPA0018.
4. Trust Documents, Bates Nos. EPA0019-64.
5. Property Sale Closing Documents, Bates Nos. EPA0065-0153.
6. Insurance Policies and Misc. Documents, Bastes Nos. EPA00154-0306.
7. Bills of Automobile Sales and Similar Documents, available for inspection at Gilbert & Renton LLC, 23 Main Street, Andover, MA.

Michael will update this response, as appropriate, if further responsive, relevant and non-privileged documents are discovered.

### **STATEMENT APPLICABLE TO ALL OF THE REQUESTS**

Michael is the son of William Boutwell, the grandson of Clifford Boutwell and Grace E. Boutwell (deceased), and the nephew of Grace Morse.

1. Michael understands that his grandfather (Clifford) incorporated Cliff Boutwell's Aberjona Auto Parts, Inc. ("CB-Aberjona") in or around 1966.
2. CB-Aberjona operated at 278-280 Salem Street, Woburn, Massachusetts (the "Property"). The Property included a residential home on the north side, which is where his father (William) was raised and his grandparents lived until 2001 when the Property was sold.

3. Michael became the day-to-day manager of CB-Aberjona in or around 1992 (at age 20), when it resumed operations at the Property after a period of inactivity.

4. In or around 1996, CB-Aberjona entered bankruptcy. Thereafter, Michael formed Aberjona Auto Parts, Inc. (“Aberjona”), and became its sole shareholder, officer and director. The remaining assets of CB-Aberjona (e.g., auto parts, equipment, business records) were transferred to Aberjona. CB-Aberjona and Aberjona never actively operated at the same time, and neither his father (William) nor Grace Morse ever worked for Aberjona.

5. Aberjona ceased conducting business in or around 1998, and left its remaining assets behind at the Property. Michael has not worked at the Property since.

6. Michael understands that the Property was sold to a third party in or around 2001, along with any former business assets (e.g., auto parts, equipment, business records) that remained at the Property.

7. Michael has searched for business records of CB-Aberjona or Aberjona, but has found none. Michael believes that some business records were destroyed during floods from the Aberjona River at the Property, and that whatever records remained were still at the Property when he left in 1998.

## **RESPONSES TO SPECIFIC REQUESTS**

### **Ownership of Aberjona Auto Parts, Inc.**

#### **Request No. 1:**

Provide copies of any leases concerning Aberjona Auto Parts, Inc.’s operations at the facility.

**Response to Request No. 1:**

Michael objects to this request as assuming facts not established. Subject to and without waiving the foregoing or General Objections, Michael further responds as follows:

William believes there was no written lease.

**Request No. 2:**

Identify all persons who had ownership interests in Aberjona Auto Parts, Inc. and the amount of ownership each person held.

**Response to Request No. 2:**

Subject to and without waiving the General Objections, Michael further responds as follows:

Michael was the sole owner of Aberjona.

**Request No. 3:**

Provide copies of the 1989 and 1990 Federal and State business tax returns and financial statements for Aberjona Auto Parts, Inc., for the last five (5) years. If you do not have copies of these forms sign the enclosed Form 4506 release so EPA can obtain copies of the tax returns and financial statements.

**Response to Request No. 3:**

Michael objects to this Request as exceeding the scope of discoverable information, and because no Form 4506 was enclosed with the Requests. Subject to and without waiving the foregoing or General Objections, Michael further responds as follows:

Michael has not found any documents responsive to this Request, and does not believe

that tax returns or financial statements were prepared by Aberjona for those years, as all business operations ceased in or around 1998.

Request No. 4:

Describe the relationship between Aberjona Auto Parts, Inc. and Cliff Boutwell's Aberjona Auto Parts, Inc.

Response to Request No. 4:

Michael objects to this Request as vague, as calling for legal conclusions, as assuming facts not established. Subject to and without waiving the foregoing or the General Objections, Michael further responds as follows:

See Statement Applicable to All of the Requests. Other than familial ties and the consecutive use of the Property and assets, there was no relationship between CB-Aberjona and Aberjona. Michael was the sole shareholder and officer of Aberjona, and was never a shareholder or officer of CB-Aberjona.

**Operation of Aberjona Auto Parts, Inc.**

Request No. 1:

Describe the nature of Aberjona Auto Parts, Inc. operations, including:

- a. the dates during which this business operated;
- b. the dates during which this business operated at the facility, the specific area(s) of the facility where the business operated, and the operations that took place in each of these areas;
- c. any other locations where the business operated and the dates the business operated at each location;
- d. the number of employees the business had;
- e. the names, addresses, and dates of employment for each employee;
- f. the names, addresses, and dates of service of all directors and officers;
- g. the raw materials that were used in the operation;
- h. the procedures and materials used to clean and maintain any equipment and machinery;

- i. the wastes generated by the business operations; and
- j. the method of collecting and disposing of each waste, including the names of all waste transporters and the location of final disposal for each waste.

Response to Request No. 1:

Michael objects to this Request as over-broad and vague, as calling for legal conclusions, and as seeking information that cannot be accurately provided without the relevant business records. Subject to and without waiving the foregoing or General Objections, Michael further responds as follows:

See Statement Applicable to All of the Requests.

- (a) Approximately 1997 to 1998.
- (b) Approximately 1997 to 1998, throughout the Property except for the residential and unusable portions.
- (c) None.
- (d) Greg Stanton, Nashua, N.H., counter help.
- (e) See (d), above.
- (f) Michael was only officer and director.
- (g) *There were no "raw materials," only used automobiles.*
- (h) There was no cleaning of parts or equipment.
- (i) Waste oil was recycled in the waste oil burners. Used anti-freeze was recycled in automobiles or sold. Solid wastes were placed into the dumpster for off-site disposal.
- (j) The solid waste dumpster may have been serviced by a BFI company. Some waste oil or used anti-freeze may have been collected by Cyn Oil, Stoughton, MA.

Request No. 2:

Describe the drums, if any, that Aberjona Auto Parts, Inc. sent to the Whitney Barrel Company, Inc. for recycling/reclamation, including:

- a. the time period during which drums were sent;
- b. the types of drums sent;
- c. the names and chemical composition of the materials stored in the drums;
- d. the quantity of materials contained in the drums;
- e. the quantity of drums of each material sent; and
- f. information on any labels included on the drums.

Response to Request No. 2:

Subject to and without waiving the General Objections, Michael further responds as follows:

Michael does not believe that Aberjona ever sent drums to Whitney Barrel Company, Inc. (“Whitney”) for recycling or reclamation.

Request No. 3.

Describe the drums, if any, that Aberjona Auto Parts, Inc. sent to Murphy’s Waste Oil Service, Inc. for processing, including:

- a. the time period during which drums were sent;
- b. the types of drums sent;
- c. the names and chemical composition of the materials stored in the drums;
- d. the quantity of materials contained in the drums;
- e. the quantity of drums of each material sent; and
- f. information on any labels included on the drums.

Response to Request No. 3.

Subject to and without waiving the General Objections, Michael further responds as follows:

Michael does not believe that Aberjona ever sent drums to Murphy’s Waste Oil Service, Inc. for processing.

Request No. 4:

Identify any other drum/barrel processing or recycling facilities that Aberjona Auto Parts, Inc. sent drums to, including:

- a. the names and address of each facility;
- b. the types of drums/materials sent to each facility;
- c. the quantity of materials contained in the drums;
- d. the quantity of drums of each material sent to each facility; and
- e. information on any labels included on the drums.

Response to Request No. 4:

Subject to and without waiving the General Objections, Michael further responds as follows:

- (a) Michael believes that Aberjona may have periodically arranged to have Cyn Oil, Stoughton, MA, collect drums containing unusable waste oil and/or used anti-freeze.
- (b) Waste oil and/or used anti-freeze
- (c) Michael believes they were 55 gal. drums.
- (d) Michael does not recall the total number of drums collected by Cyn Oil, and acknowledges that he does not definitively recall whether Cyn Oil collected drums during the period of Aberjona's operation (1997-98) as opposed to CB-Aberjona (1992-96).
- (e) Michael believes the drums included a label with the words "Waste Oil."

Request No. 5

Describe the procedure for processing vehicles accepted at the facility, including:

- a. the types of fluids drained from the vehicles and the area(s) where these fluids were drained from the vehicles;
- b. the area(s) of facility where each fluid was collected/stored;
- c. the ultimate disposal location for each fluid, including the name of the transporter(s) used to haul each fluid;
- d. the area(s) where the vehicles were stored at the facility prior to and following

- e. processing; and  
provide copies of all documents that provide information and/or reference the acceptance of vehicles at the facility.

Response to Request No. 5:

Michael objects to this Request as vague, especially the word “facility,” and to the extent information is sought about any entity other than Aberjona. Subject to and without waiving the foregoing or General Objections, Michael further responds as follows:

There was little if any processing of vehicles by Aberjona, as business was very slow in 1997 and 1998. Mostly Aberjona dealt with the existing parts and used vehicles that were already at the Property and had previously been owned by CB-Aberjona.

Insofar as a few used vehicles were acquired and processed by Aberjona, they were first parked and then taken into an inside dismantling bay. The gasoline tank would be “dropped” and the gasoline removed for reuse. The engine and transmissions were removed, and the used engine oil and transmission fluid transferred into drums for recycling in the two waste oil burners at the Property. Next, the anti-freeze would be drained for reuse or resale. Once these activities were completed, the vehicle would be returned to the outside storage areas where yet additional parts could be removed (e.g., tires, mirrors, seats, drums, radios, etc.) on an as-requested basis.

- (a) Gasoline, waste oil and anti-freeze was usually removed in the dismantling bays.
- (b) The fluids were initially collected/stored where removed, but could then be moved to other locations, including outside against the building under the overhang, into trailers, next to the waste oil heaters, in the main sales area (north end of building close to sales counter).
- (c) The great majority of fluids were recycled or sold. Limited off-site recycling or disposal may also have taken place through Cyn Oil.

(d) Vehicles were stored throughout the Property. There was an “upper lot” that was generally used to store vehicles prior to dismantling, and a “lower lot” or “back area” that was generally used thereafter.

(e) Michael has not located any documents responsive to this request.

Request No. 6:

Identify the individuals, including former employees, who were responsible for processing the vehicles that were accepted at the facility.

Response to Request No. 6:

Michael objects to this request as vague, calling for legal conclusions, as seeking information that cannot be reliably provided absent employment or business records, and to the extent it seeks information about any entity other than Aberjona. Subject to and without waiving the foregoing or General Objections, Michael further responds as follows:

Michael did most of the dismantling during 1997 and 1998, although customers would also do some dismantling of the parts they were interested in buying.

Request No. 7:

Describe the procedures for cleaning parts and equipment for resale, or for other purposes at the facility, including:

- a. the area(s) of the facility where parts and equipment were removed from the vehicles;
- b. the area(s) of the facility where parts and equipment were cleaned;
- c. the number and type of parts washer stations used (i.e., electric or manual pump; baths; rags or brushed used to clean parts);
- d. the names and chemical composition of each material used to clean the parts and equipment;
- e. the time periods during which each cleaning solution or material was used at the facility;
- f. the names and addresses of the vendors for each material;

- g. the area(s) where each material was stored at the facility (as a raw material);
- h. how and where spent solutions were collected and stored at the facility prior to disposal;
- i. How each material was disposed of, including the name(s) of the transporter(s) and final disposal location(s) for each material;
- j. the names of any spent cleaning solutions or materials that were placed in floor drains, the septic or sewer system, on an evaporation pad, or disposed of on the ground surface (including drainage trenches) and the frequency of each type of disposal;
- k. the employees or other individuals who were responsible for cleaning the parts and equipment, including each individual's responsibilities and the time periods each individual was responsible for those operations; and
- l. Provide copies of all documents that provide information and/or reference these part and equipment cleaning operations.

Response to Request No. 7:

Michael objects to this request as vague, calling for legal conclusions, as seeking information that cannot be reliably provided without employment or business records, and to the extent it seeks information about any entity except Aberjona. Subject to and without waiving the foregoing or the General Objections, Michael further responds as follows:

(a) Parts were removed from vehicles throughout the Property. Dismantling mostly occurred in the dismantling bays. However, parts also would be removed at outdoor locations where the vehicles were parked or stored, including the upper yard and the lower yard.

(b) Parts and equipment were not cleaned.

(c) N/A.

(d) N/A.

(e) N/A.

(f) N/A.

(g) N/A.

- (h) N/A.
- (i) N/A.
- (j) N/A.
- (k) N/A.
- (l) Michael has not located any documents responsive to this request.

**General Questions**

**Request No. 1:**

If you have information concerning operations of Aberjona Auto Parts, Inc., Cliff Boutwell's Aberjona Auto Parts, Inc., or other business operations at the facility, or the source, content, or quantity of materials placed/disposed of at the facility which is not included in the information you have already provided, provide all such information.

**Response to Request No. 1:**

Michael objects to this question as over broad and vague, including as to the terms "operations," "other business operations," "materials," and "placed." Michael also objects that no time frame is provided for the question. Subject to the foregoing and the General Objections, Michael further responds as follows:

Michael has no further documents or knowledge responsive to this Request.

**Request No. 2:**

If not already included in your response, if you have reason to believe that there may be persons, including persons currently or formerly employed by Clifford C. Boutwell, William E. Boutwell, or Michael Boutwell who are able to provide a more detailed or complete response to any of these questions or who may be able to provide additional responsive information or

documents, identify such persons and the additional information or documents that they might have.

Response to Request No. 2:

Michael objects to this Request as over broad and vague. Subject to and without waiving the foregoing or the General Objections, Michael further responds as follows:

Michael has no further documents or knowledge responsive to this Request.

Request No. 3:

If not already provided, identify all persons, including the current and former employees of Clifford C. Boutwell, William E. Boutwell, or Michael Boutwell who have knowledge or information about the generation, use, purchase, treatment, storage, disposal, placement or other handling of materials at, or transportation of materials to, the facility.

Response to Request No. 3:

Michael objects to this Request as over broad and vague, and as seeking information that cannot be accurately provided without the relevant business records. Subject to and without waiving the foregoing or the General Objections, Michael further responds as follows:

Michael has no further documents or knowledge responsive to this Request.

Request No. 4:

Describe all sources reviewed or consulted in responding to this request, including but not limited to:

- a. the names of, and contact information for, all individuals consulted;
- b. the current job title and job description of each individual consulted;
- c. the job title and job description during the period being investigated for each individual consulted;
- d. whether each individual consulted is a current or past employee of Clifford C. Boutwell, William E. Boutwell, or Michael Boutwell;

- e. the names of all companies, divisions or offices for Clifford C. Boutwell, William E. Boutwell or Michael Boutwell for which records were reviewed;
- f. the nature of all documents reviewed;
- g. the locations where those documents reviewed were kept prior to review; and
- h. the location where those documents reviewed are currently kept.

Response to Request No. 4:

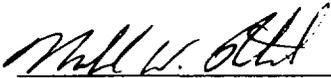
Michael objects to this Request as over broad, and as intruding upon attorney-client privileged communications, and as seeking attorney work-product. Subject to the foregoing and General Objections, Michael further responds as follows:

Michael spoke with William Boutwell and Grace Morse, and also searched his possessions for responsive documents.

\* \* \*

I declare under penalty of perjury that I am authorized to respond on behalf of Michael Boutwell, and the foregoing is complete, true and correct.

Executed: June 27, 2005

  
\_\_\_\_\_  
Michael Boutwell

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I (NEW ENGLAND)**

\_\_\_\_\_  
GRACE MORSE,  
                  **Respondent.**  
\_\_\_\_\_

**RESPONSE TO REQUESTS FOR INFORMATION**

Grace Morse (“Grace”) hereby responds to the requests for information (the “Requests”) of the United States Environmental Protection Agency (“EPA”), pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9604(3), served under cover of letter dated April 14, 2005.

**GENERAL OBJECTIONS**

1. Grace objects to the Requests to the extent they seek information or documents in excess of EPA’s legal authority.
2. Grace objects to the Requests to the extent they seek information protected from discovery by the attorney-client privilege, or any other privilege or exemption.
3. Grace objects to the Requests to the extent they (i) are overly broad and unduly burdensome, (ii) seek information not described with reasonable particularity, (iii) are vague and confusing, and/or (iv) seek irrelevant information.
4. Grace objects to the Requests to the extent they require her to provide information (i) that is not within her possession or control, (ii) that is in the possession or control of EPA, and/or (iii) is in the public domain.
5. Grace objects to the Requests to the extent they imply unlawful conduct by her or anyone for whom she might be held responsible, or try to get her to admit to any such unlawful

conduct, and she specifically states that by responding to the Requests she is accepting no such implication or responsibility, and is making no such admission.

6. Grace reserves the right to supplement her responses and objections as additional information is discovered or becomes available.

### **DOCUMENTS PRODUCED HERewith; INCORPORATION BY REFERENCE**

The following documents thus far discovered by Grace, William Boutwell, and Michael Boutwell, as a result of their diligent searches are being produced herewith, and are generally incorporated by reference to the responses herein.

1. RFI to CB-Aberjona w/Response (Dec. 31, 1987), Bates Nos. EPA0001-13.
2. Durable Power of Attorney (June 1, 1999), Bates No. EPA0014-17.
3. Permanent Decree of Guardianship (Oct. 14, 1998), Bates No. EPA0018.
4. Trust Documents, Bates Nos. EPA0019-64.
5. Property Sale Closing Documents, Bates Nos. EPA0065-153.
6. Insurance Policies and Misc. Documents, Bastes Nos. EPA0154-0306.
7. Box of Bills of Automobile Sales and Similar Documents, available for inspection at Gilbert & Renton LLC, 23 Main Street, Andover, MA.

Grace will update this response, as appropriate, if further responsive, relevant and non-privileged documents are discovered.

### **STATEMENT APPLICABLE TO ALL OF THE REQUESTS**

Grace is one of four surviving children of Clifford Boutwell and Grace E. Boutwell (deceased). One brother is William Boutwell, whose son is Michael Boutwell.

1. To the best of her knowledge, Grace never owned, in whole or in part, either of the two businesses targeted by the RFI: (1) Cliff Boutwell's Aberjona Auto Parts, Inc. ("CB-Aberjona"); and (2) Aberjona Auto Parts, Inc. ("Aberjona"). Both businesses were owned or operated by other family members, including Clifford Boutwell (her father), William Boutwell (her brother) and Michael Boutwell (her nephew).

2. Grace never owned the property where the businesses were located, 278-280 Salem Street, Woburn (the "Property"). However, the Property also included a house on the northern boundary, where Grace was raised. Grace moved into the house with her family at age 4 (1946), and she left at age 18 (1960). Grace's parents remained in the house until 1999, when her mother relocated to a nursing home, and 2001, when her father relocated to a nursing home. Because the house was physically separate from the business buildings and operations, Grace did not routinely enter the business premises when visiting her parents, although she would sometimes go into the office to visit with her mother prior to 1990.

3. To the best of her knowledge, Grace never managed or worked for CB-Aberjona or Aberjona, and she did not participate in day-to-day business operations at the businesses. Grace also does not recall ever having received income generated by either business.

4. Grace recalls serving as "Clerk" of CB-Aberjona for several years (possibly including 1994) for the limited purpose of assisting in corporate formalities, most notably signing documents confirming the transfer of stock shares from father (Clifford) to her brother (William).

5. Grace helped to arrange for the sale of the Property, commencing in 1999 after all business operations of CB-Aberjona and Aberjona had ceased. At the time, Grace's father (Clifford) was infirm and had executed a Durable Power of Attorney authorizing Grace (*inter alia*) to "receive real and personal property," and to "sell, lease, mortgage or otherwise transfer any real or personal property." See Bates Nos. EPA0014-17. Grace also was serving as Guardian for her mother (Grace E. Boutwell), who has since deceased. See Bates No. EPA0018. Grace also was a named Co-Trustee of the Grace E. Boutwell Family Trust. See Bates Nos. EPA0019-64.

6. In 2001, the Property, and any remaining assets of CB-Aberjona and Aberjona that may have been located on the Property, were sold to Apache, LLC, whose principal was Robert Holland, the owner of Holland Car Crushing, Inc. The purchase price was \$589,577.60. At the time of the sale, the vast majority of the business files and records of CB-Aberjona and Aberjona, in various states of disarray, were stored or strewn about the main building(s) at the Property. Grace did not review, collect or retain these records in connection with the sale, but instead left them “as is” (like everything else) for the new owners, save for a single insurance policy and a single box of what appears to be bills of sales for used automobiles. These records are available for inspection upon request.

7. Grace believes the Property was held as “tenants in common” by Grace’s father (Clifford Boutwell) and mother (Grace E. Boutwell). In any event, she recalls that the proceeds were placed 50% into her father’s bank account, and 50% into the bank account of Grace E. Boutwell Family Trust (the “Trust”). Grace serves as a co-Trustee of the Trust. All of the funds placed into the father’s bank account have since been spent, mostly on his nursing home and medical care, which costs over \$88,000 per year. Presently, \$128,854.89 remains in the bank account for the Trust, but that too is being dissipated for the nursing home and care of Grace’s father (as required by the terms of the Trust) at a rate of at least \$8,000 per month.

8. Grace, William Boutwell, and Michael Boutwell have each searched their homes and/or offices for business records for CB-Aberjona or Aberjona, and have found those records identified above. Additional responsive documents also may have been lost in August 2002 when flooding affected Grace’s storage closet at her condominium building at

REDACTED - PERSONAL PRIVACY

REDACTED - PERSONAL PRIVACY

The remaining records were transferred with the Property in 2001.

## RESPONSES TO SPECIFIC REQUESTS

### Operation of Cliff Boutwell's Aberjona Auto Parts, Inc.

#### Request No. 1:

Describe the drums, if any, that Cliff Boutwell's Aberjona Auto Parts, Inc. sent to the Whitney Barrel Company, Inc. for recycling/reclamation, including:

- a. the time period during which drums were sent;
- b. the types of drums sent;
- c. the names and chemical composition of the materials stored in the drums;
- d. the quantity of materials contained in the drums;
- e. the quantity of drums of each material sent; and
- f. information on any labels included on the drums.

#### Response to Request No. 1:

Grace objects that no time frame is provided for the Request. Subject to the foregoing and the General Objections, Grace further responds as follows:

Grace has no documents or knowledge responsive to this Request.

#### Request No. 2.

Describe the drums, if any, that Cliff Boutwell's Aberjona Auto Parts, Inc. sent to Murphy's Waste Oil Service, Inc. for processing, including:

- a. the time period during which drums were sent;
- b. the types of drums sent;
- c. the names and chemical composition of the materials stored in the drums;
- d. the quantity of materials contained in the drums;
- e. the quantity of drums of each material sent; and
- f. information on any labels included on the drums.

#### Response to Request No. 2.

Grace objects that no time frame is provided for the Request. Subject to the foregoing and the General Objections, Grace further responds as follows:

Grace has no documents or knowledge responsive to this Request.

Request No. 3:

Identify any other drum/barrel processing or recycling facilities that Cliff Boutwell's

Aberjona Auto Parts, Inc. sent drums to, including:

- a. the names and address of each facility;
- b. the types of drums/materials sent to each facility;
- c. the quantity of materials contained in the drums;
- d. the quantity of drums of each material sent to each facility; and
- e. information on any labels included on the drums.

Response to Request No. 3:

Grace objects that no time frame is provided for the Request. Subject to the foregoing and the General Objections, Grace further responds as follows:

Grace has no documents or knowledge responsive to this Request.

Request No. 4

Describe the procedure for processing vehicles accepted at the facility, including:

- a. the types of fluids drained from the vehicles and the area(s) where these fluids were drained from the vehicles;
- b. the area(s) of facility where each fluid was collected/stored;
- c. the ultimate disposal location for each fluid, including the name of the transporter(s) used to haul each fluid;
- d. the area(s) where the vehicles were stored at the facility prior to and following processing; and
- e. provide copies of all documents that provide information and/or reference the acceptance of vehicles at the facility.

Response to Request No. 4:

Grace objects that no time frame is provided for the Request. Subject to the foregoing and the General Objections, Grace further responds as follows:

Grace has no documents or knowledge responsive to this Request.

Request No. 5:

Identify the individuals, including former employees, who were responsible for processing the vehicles that were accepted at the facility.

Response to Request No. 5:

Grace objects that no time frame is provided for the Request. Subject to the foregoing and the General Objections, Grace further responds as follows:

Grace has no documents or knowledge responsive to this Request.

Request No. 6:

Describe the procedures for cleaning parts and equipment for resale, or for other purposes at the facility, including:

- a. the area(s) of the facility where parts and equipment were removed from the vehicles;
- b. the area(s) of the facility where parts and equipment were cleaned;
- c. the number and type of parts washer stations used (i.e., electric or manual pump; baths; rags or brushes used to clean parts);
- d. the names and chemical composition of each material used to clean the parts and equipment;
- e. the time periods during which each cleaning solution or material was used at the facility;
- f. the names and addresses of the vendors for each material;
- g. the area(s) where each material was stored at the facility (as a raw material);
- h. how and where spent solutions were collected and stored at the facility prior to disposal;
- I. How each material was disposed of, including the name(s) of the transporter(s) and final disposal location(s) for each material;
- j. the names of any spent cleaning solutions or materials that were placed in floor drains, the septic or sewer system, on an evaporation pad, or disposed of on the ground surface (including drainage trenches) and the frequency of each type of disposal;
- k. the employees or other individuals who were responsible for cleaning the parts and equipment, including each individual's responsibilities and the time periods each individual was responsible for those operations; and
- l. Provide copies of all documents that provide information and/or reference these part and equipment cleaning operations.

Response to Request No. 6:

Grace objects that no time frame is provided for the question. Subject to the foregoing and the General Objections, Grace further responds as follows:

Grace has no documents or knowledge responsive to this Request.

**Corporate Information Regarding Cliff Boutwell's Aberjona Auto Parts, Inc.**

Request No. 1:

In a 1994 Annual Report you are identified as the Clerk of Cliff Boutwell's Aberjona Auto Parts, Inc. Describe the nature of your involvement in the operation of Cliff Boutwell's Aberjona Auto Parts, Inc.

Response to Request No. 1:

Grace objects to the Request as assuming facts not established. Subject to and without waiving the foregoing or the General Objections, Grace further responds as follows:

See Statement Applicable to All Responses, at ¶ 4.

Request No. 2:

Describe the nature of the power of attorney you have for Clifford C. Boutwell, including:

- a. the time period(s) during which this power of attorney was or is in effect;
- b. the circumstances and/or activities covered or governed by the power of attorney; and
- c. provide copies of the power of attorney agreement and any other documents or information related to this agreement.

Response to Request No. 2:

Subject to and without waiving the General Objections, Grace further responds as follows:

See Bates Nos. EPA0014-17, which speak for themselves. The Power of Attorney has remained in effect without interruption since its execution in 1999.

Request No. 3:

Explain why Cliff Boutwell's Aberjona Auto Parts, Inc. was dissolved in 1998. Identify the individual(s) who was in charge of business operations at the time of dissolution.

Response to Request No. 3:

Subject to and without waiving the General Objections, Grace further responds as follows:

Grace has no knowledge responsive to the first sentence. As to the second sentence, Grace believes her brother, William Boutwell, was responsible for CB-Aberjona prior to entering bankruptcy and being dissolved.

Request No. 4:

Describe how the assets of Cliff Boutwell's Aberjona Auto Parts, Inc. were distributed after dissolution, including:

- a. the name of each individual or other entity receiving a portion of the assets and a description of the assets received by each; and
- b. the current location of any remaining assets.

Response to Request No. 4:

Subject to and without waiving the General Objections, Grace further responds as follows:

Grace has no knowledge responsive to this request, except for a general understanding that at some point the used automobile parts and equipment stored at the Property passed from CB-Aberjona to Aberjona, and that whatever still remained on-site passed to Apache, LLC, when it acquired the Property in 2001.

Request No. 5:

Provide copies of the 1997 and 1998 Federal and State business income tax returns and financial statements for Cliff Boutwell's Aberjona Auto Parts, Inc. If you do not have copies of these forms, sign the enclosed Form 4506 release so EPA can obtain copies of the tax returns and financial statements.

Response to Request No. 5:

Grace objects to this request as seeking information not authorized by CERCLA, and because no Form 4506 was included with the Requests. Subject to and without waiving the foregoing or the General Objections, Grace further responds as follows:

Grace does not possess tax returns or financial statements for CB-Aberjona or Aberjona, and does not know whether she would be authorized to sign a Form 4506 in any event.

Request No. 6:

Describe how the proceeds from the sale of 278-280 Salem Street were distributed, including:

- a. the names and addresses of each individual or other entity receiving a portion of these sale proceeds and the percentage of the sale proceeds each received;
- b. the names and date of establishment of any trust that received a portion of these

- c. sale proceeds and the percentage of sale proceeds received by each trust; the individuals identified as Trustees and beneficiaries of any of the trusts identified above; and
- d. provide copies of the trust documents.

Response to Request No. 6:

Grace objects to this request as seeking private information not relevant to this proceeding. Subject to and without waiving the foregoing or the General Objections, Grace further responds as follows:

See Statement Applicable to All Requests, at ¶¶ 6 and 7.

Request No. 7:

Identify the dates during which Michael Boutwell operated Aberjona Auto Parts, Inc. Provide the current address and phone number for Michael Boutwell.

Response to Request No. 7:

Grace objects to this Request as assuming facts not established. Subject to the foregoing and General Objections, Grace further responds as follows:

Grace does not possess information regarding if or when Michael Boutwell owned or operated Aberjona, although she understands that any involvement terminated prior to 1999.

Grace understands Michael currently resides at REDACTED - PERSONAL PRIVACY  
REDACTED - PERSONAL PRIVACY

Request No. 8:

Describe the corporate and business relationship between Aberjona Auto Parts, Inc operated by Michael Boutwell and Cliff Boutwell's Aberjona Auto Parts, Inc. operated by William E. Boutwell and Clifford C. Boutwell.

Response to Request No. 8:

Grace objects to this Request as vague, especially the phrase “corporate and business relationship,” as calling for legal conclusions, and assuming facts not established. Subject to and without waiving the foregoing and General Objections, Grace further responds as follows:

Grace does not possess information responsive to this Request.

**Grace E. Boutwell Revocable Trust**

Request No. 1:

Describe the terms of the Grace E. Boutwell Revocable Trust of January 26, 1990 (“Trust”). Identify the Trustees and beneficiaries of this Trust. Identify all the property included in the Trust. Provide a copy of the Trust.

Response to Request No. 1:

Grace objects to this Request as over-broad and intruding into private family matters not relevant to this proceeding. Subject to and without waiving the foregoing or the General Objections, Grace further responds as follows:

See Trust Documents, Bates Nos. EPA0019-64, which speak for themselves.

Request No. 2:

Describe the revocation of the Trust, if any, including:

- a. the date the Trust was revoked;
- b. how the assets of the Trust were distributed; and
- c. the current location and value of each asset.

Response to Request No. 2:

Grace objects to this Request as over-broad, as intruding into private family matters not relevant to this proceeding, and as assuming facts not established. Subject to and without waiving the foregoing or the General Objections, Grace further responds as follows:

The Trust is not revoked. See also General Statement Applicable to All Requests, at ¶ 7.

### **General Questions**

#### **Request No. 1:**

If you have information concerning operations of Aberjona Auto Parts, Inc., Cliff Boutwell's Aberjona Auto Parts, Inc., or other business operations at the facility, or the source, content, or quantity of materials placed/disposed of at the facility which is not included in the information you have already provided, provide all such information.

#### **Response to Request No. 1:**

Grace objects to this Request as over broad and vague, including as to the terms "operations," "other business operations," "materials," and "placed." Grace also objects that no time frame is provided. Subject to and without waiving the foregoing and the General Objections, Grace further responds as follows:

Grace has no further documents or knowledge responsive to this Request.

#### **Request No. 2:**

If not already included in your response, if you have reason to believe that there may be persons, including persons currently or formerly employed by Clifford C. Boutwell, William E. Boutwell, or Michael Boutwell who are able to provide a more detailed or complete response to any of these questions or who may be able to provide additional responsive information or documents, identify such persons and the additional information or documents that they might have.

#### **Response to Request No. 2:**

Grace objects to this Request as over broad and vague, including as to the phrase "a more detailed or complete response to any of these questions." Grace also objects that no time frame

is provided. Subject to and without waiving the foregoing and the General Objections, Grace further responds as follows:

Grace has no further knowledge or documents responsive to this Request.

Request No. 3:

If not already provided, identify all persons, including the current and former employees of Clifford C. Boutwell, William E. Boutwell, or Michael Boutwell who have knowledge or information about the generation, use, purchase, treatment, storage, disposal, placement or other handling of materials at, or transportation of materials to, the facility.

Response to Request No. 3:

Subject to and without waiving the General Objections, Grace further responds as follows:

Grace has no further documents or knowledge responsive to this Request.

Request No. 4:

Describe all sources reviewed or consulted in responding to this request, including but not limited to:

- a. the names of, and contact information for, all individuals consulted;
- b. the current job time and job description of each individual consulted;
- c. the job title and job description during the period being investigated for each individual consulted;
- d. whether each individual consulted is a current or past employee of Clifford C. Boutwell, William E. Boutwell, or Michael Boutwell;

- e. the names of all companies, divisions or offices for Clifford C. Boutwell, William E. Boutwell or Michael Boutwell for which records were reviewed;
- f. the nature of all documents reviewed;
- g. the locations where those documents reviewed were kept prior to review; and
- h. the location where those documents reviewed are currently kept.

Response to Request No. 4:

Grace objects to this Request as intruding upon attorney-client privileged communications, and as seeking attorney work-product. Subject to the foregoing and General Objections, Grace further responds as follows:

Grace spoke with William Boutwell and Michael Boutwell, and also searched for and located in her own home REDACTED - PERSONAL PRIVACY many of the documents identified herein.

\* \* \*

I declare under penalty of perjury that I am authorized to respond on behalf of Grace P. Morse and the foregoing is complete, true and correct.

Executed: June \_\_, 2005

\_\_\_\_\_  
Grace P. Morse

- e. the names of all companies, divisions or offices for Clifford C. Boutwell, William E. Boutwell or Michael Boutwell for which records were reviewed;
- f. the nature of all documents reviewed;
- g. the locations where those documents reviewed were kept prior to review; and
- h. the location where those documents reviewed are currently kept.

Response to Request No. 4:

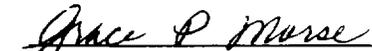
Grace objects to this Request as intruding upon attorney-client privileged communications, and as seeking attorney work-product. Subject to the foregoing and General Objections, Grace further responds as follows:

Grace spoke with Willia<sup>R</sup><sub>E</sub> Boutwell and Michael Boutwell, and also searched for and located in her own home REDACTED - PERSONAL PRIVACY many of the documents identified herein.

\* \* \*

I declare under penalty of perjury that I am authorized to respond on behalf of Grace P. Morse and the foregoing is complete, true and correct.

Executed: June 24, 2005

  
Grace P. Morse



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

December 31, 1987

Clifford Boutwell - *T>*  
Aberjona Auto Parts  
278-280 Salem Street  
Woburn, Massachusetts 01801

*me?*  
*or*  
*from*  
*His*  
*A.A.P.*

Re: Request for Information Pursuant to Section 104 of CERCLA and Section 3007 of RCRA, for certain activities occurring at Aberjona Auto Parts at 278 Salem Street, Woburn, Massachusetts, hereinafter referred to as "the Facility".

Dear Mr. Boutwell:

The United States Environmental Protection Agency (EPA) is currently investigating the source, extent and nature of the release or threatened release of hazardous substances, pollutants or contaminants, or hazardous wastes on or about the Wells G & H Superfund Site, in Woburn, Massachusetts, "the Site". At present the Site boundaries are: Route 128 to the North, Salem and Cedar Streets to the South, Wildwood Avenue to the West, and Interstate 93 to the East. This investigation requires inquiry into the identification, nature, and quantity of materials that have been or are generated, treated, stored, or disposed of at or transported to the Site, and the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from the Site. EPA also is seeking information relating to the ability of a person to pay for or to perform a cleanup of the Site.

Pursuant to the authority of Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9604, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), P.L. 99-499, and Section 3007 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927, you are hereby requested to respond to the Information Request set forth in Attachment A.

Compliance with the Information Request set forth in Attachment A is mandatory. Failure to respond fully and truthfully to the Information Request within fifteen (15) business days of receipt of this letter, or to adequately justify such failure to respond, can result in enforcement action by EPA pursuant to Section 104(e) of CERCLA, as amended, and/or Section 3008 of RCRA.

Each of these statutes permits EPA to seek the imposition of penalties of up to twenty-five thousand dollars (\$25,000) for each day of continued non-compliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001 or Section 3008(d) of RCRA.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, et seq.

Your response to this Information Request should be mailed to:

U.S. Environmental Protection Agency  
Barbara Newman, Project Manager  
Massachusetts Superfund Section  
Waste Management Division  
JFK Federal Building, HRS-CAN2  
Boston, MA 02203

If you have any legal questions, please direct such questions to Gretchen Muench of the Office of Regional Counsel at (617) 565-3316. If you have any technical questions, please direct such questions to Barbara Newman, at the above address, or at (617) 573-5736.

Due to the seriousness of the problem at the Site and the legal ramifications of your failure to respond properly, EPA strongly encourages you to give this matter your immediate attention and respond to this Information Request within the time specified above.

Thank you for your cooperation in this matter.

Sincerely,



Merrill S. Hohman, Director  
Waste Management Division

Enclosure

cc. Gretchen Muench, Office of Regional Counsel  
Barbara Newman, Waste Management Division  
Rodine DeRice, MA DEQE

## FIRST INFORMATION REQUEST

Instructions

1. A separate response must be made to each of the Questions set forth in this Information Request.
2. Precede each answer with the number of the Question to which it corresponds.
3. If information which is not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find at any time after the submission of this response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA thereof as soon as possible.
4. For each document produced in response to this Information Request indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.
5. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, as amended by SARA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), and 40 C.F.R. 2.203(b), by attaching to such information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," or "proprietary" or "company confidential." Information covered by such a claim will be disclosed by EPA only to the extent, and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. You should read the above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.
6. Where specific information has not been memorialized in any document, but is nonetheless responsive to a Question, you must respond to the Question with a written response.

Definitions

The following definitions shall apply to the following words as they appear in this Attachment A:

1. The term "you" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, successors, assigns, and agents.
2. The term "person" as used herein includes, in the plural as well as the singular, any natural person, firm, unincorporated association, partnership, corporation, trust or other entity.
3. The term "the Facility" shall mean and include the Aberjona Auto Parts property located on Block 16005, lots 34 and 36 of the Woburn Tax Assessor's Map in Woburn, Massachusetts.
4. The term "the Site" shall mean and include all the property that is bounded by: Route 128 to the North, Salem and Cedar Streets to the South, Wildwood Avenue to the West, and I-93 to the East in Woburn, Massachusetts.
5. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA and includes any mixtures of such hazardous substances with any other substances, including petroleum products.
6. The term "pollutant or contaminant," shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances, including petroleum products.
7. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of RCRA.
8. The term "solid waste" shall have the same definition as that contained in Section 1004(27) of RCRA.
9. The term "materials" shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site, including, but not limited to, all hazardous substances, pollutants and contaminants, hazardous wastes and solid wastes, as defined above including, but not limited to, benzene, toluene, tetrachloroethene, trichloroethene, 1,2 trans-dichloroethene, 1,1,1-trichloroethane and any petroleum product such as fuel oil or gasoline.

*Does each  
employee or  
agent count  
as a  
Respondent?*

*and  
this?  
Is this a H/W? the gas we get from  
who does it become*

10. The term "hazardous material" shall mean all hazardous substances, pollutants or contaminants, and hazardous wastes, as defined above.

11. The term "non-hazardous material" shall mean all material as defined above, excluding hazardous substances, pollutants and contaminants, and hazardous waste.

12. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

13. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) to set forth its full name, address, legal form (e.g. corporation, partnership, etc.), organization, if any, and a brief description of its business.

14. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.

15. The term "release" has the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

16. The terms "document" and "documents" shall include writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, receipt, endorsement, check, bank draft, cancelled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such

*Company Manual*

punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like of it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.

17. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

18. The term "arrangement" means every separate contract or other agreement between two or more persons.

19. The term "property interest" means any interest in property, including but not limited to, any ownership interest, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary of a trust that owns or rents, or owned or rented property.

*Go thru MUEL of  
11/11 on NY  
after.*

20. The term "asset" shall include the following: real estate, buildings or other improvements to real estate, equipment, vehicles, furniture, inventory, supplies, customer lists, accounts receivable, interest in insurance policies, interests in partnerships, corporations and unincorporated companies, securities, patents, stocks, bonds, and other tangible as well as intangible property.

*\* see Q. 5.*

QUESTIONS

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rec'd documents  
& we have?  
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much of  
in our  
S.*

1. Identify the person(s) answering these Questions on behalf of Respondent.
2. For each and every Question contained herein, identify all persons consulted in the preparation of the answer.
3. For each and every Question contained herein, identify all documents consulted, examined, or referred to in the preparation of the answer and provide true and accurate copies of all such documents.
4. List the EPA RCRA Identification Numbers of the Respondent, if any.

5. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.

*They mean  
all past  
EMPLOYEES??*

6. Identify all persons, including Respondent's employees, who have knowledge or information about the generation, use, purchase, treatment, storage, disposal or other handling of materials at, or transportation of materials to, the Facility.

7. For each and every Question contained herein, if information responsive to this Information Request is not in your possession, custody or control, then identify the persons from whom such information may be obtained.

8. Identify the current owner and type of operation occurring at the Facility. State the dates during which the current owner owned, operated or leased any portion of the facility and provide copies of all documents evidencing or relating to such ownership, operation or lease, including, but not limited to, purchase and sale agreements, deeds, leases, etc.

9. Identify all prior owners of the Facility. For each prior owner further identify:

a. The dates of their ownership.

b. Any evidence that hazardous materials were released or threatened to be released at the Facility during the period that they owned the Facility.

10. Identify the current and prior operators and lessors of the Facility. For each such operator or lessor, further identify:

a. The dates of their operations at, or lease of, the Facility.

b. The nature of their operations at the Facility.

c. All evidence that materials were released or threatened to be released at the Site during the period in which they were operating at the Facility, including but not limited to, M.G.L. 21 E inspections, NPDES permits, any correspondence with the local, state or federal government, and interviews with employees.

*we had an interview  
to see what was there  
to have a complete  
Rev. They did not seem  
to have a complete  
Rev.*

Wob Mrs. report?

11. Describe your present activities at the Facility. Describe any prior activities at your Facility by any predecessors identified in response to questions # 8 - 10 above.

12. Describe the physical characteristics of the Facility including but not limited to the following:

- a. Surface structures (e.g., buildings, tanks, etc.).
- b. Ground water wells, including drilling logs.
- c. Past and present storm water drainage system, sanitary sewer system, including septic tank(s) and subsurface disposal field(s).
- d. Underground storage tanks containing any petroleum products, including the age and size of the tank and the type and quantity of petroleum stored.
- e. Any and all additions, demolitions or changes of any kind to physical structures on, under or about the Facility, or to the property itself (e.g., excavation work) and state the dates on which such changes occurred.

PHOTOGRAPHS of their work

oil/water separator

see photo of report.

13. Describe the acts or omissions of any persons, other than your employees, agents or those persons with whom you had a contractual relationship, that may have caused the release or threat of release of hazardous substances at the Site or at the Facility and the damages relating therefrom and identify such persons. In addition, describe all precautions that you took against foreseeable acts or omissions of any such third parties and the consequences that could foreseeably result from such acts or omissions.

14. Provide all existing technical or analytical information about the Facility, including but not limited to data and documents related to soil, water (ground and surface), geology, geohydrology, or air quality on and about the Facility.

15. Are you or your consultants planning to perform any investigations of the soil, water (ground or surface), geology, hydrogeology or air quality on or about the Facility? If so, identify:

- a. What the nature and scope of these investigations will be.
- b. The contractors or other persons that will undertake these investigations.

- c. The purpose of the investigations.
- d. The dates when such investigations will take place and be completed.
- e. Where at the Facility such investigations will take place.

16. At the time you acquired the parcels of the Facility, did you know or have reason to know that any material was disposed of on, in, or at the Facility? Describe all investigations of the Facility you undertook prior to acquiring/leasing the Facility and all of the facts on which you base the answer to the preceding question.

17. Have you ever generated, purchased, stored, treated, disposed, or otherwise handled at the Facility any materials? If the answer to the preceding question is anything but an unqualified "no" identify:

a. In general terms, the nature and quantity of the non-hazardous materials so transported, used, purchased, generated, stored, treated, disposed, or otherwise handled.

b. The chemical composition, characteristics, physical state (e.g., solid, liquid) and quantity of each hazardous material so transported, used, purchased, generated, stored, treated, disposed, or otherwise handled.

c. The persons who supplied you with each such hazardous material.

d. How each such hazardous material was used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you.

e. When each such hazardous material was used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you.

f. Where each such hazardous material was used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you. Specify, with drawings and maps, where exactly on your property, the material was handled in any of the above manners.

*WAS (E) ON STAFF?*

*Who needs his shit!*

*F we are able what was those who was? TWS. Cosa hundreds?*

18. Are you or your consultants planning to remove, replace insert, or alter in any way, any physical structure listed in question 12?

19. Identify all leaks, spills or releases or threats of releases of any kind, into the environment of any hazardous materials, including, but not limited to petroleum products, that have occurred or may occur at or from the Facility. In addition, identify:

- a. When such releases occurred or may occur.
- b. How the releases occurred or may occur.

20. If any release or threatened release identified in response to Question 19 above, occurred into any subsurface disposal system or floor drain inside or under any buildings located on the Facility, further identify:

- a. Where precisely, the disposal system or floor drains are and were located.
- b. When the disposal system or floor drains were installed.
- c. Whether the disposal system or floor drains were connected to any pipes.
- d. When such pipes were installed and where are they located.

21. Identify all liability insurance policies held by Respondent. In identifying such policies, state:

- a. The name and address of each insurer and of the insured;
- b. The amount of coverage under each policy;
- c. The commencement and expiration dates for each policy;
- d. Whether or not the policy contains a "pollution exclusion" clause; and
- e. Whether or not the policy covers sudden, nonsudden or both types of accidents.

In lieu of providing this information, you may submit complete copies of all insurance policies that may cover the release or threatened release of hazardous materials.

IS THIS A FOLDER  
EXPERIMENTATION TO FIND OUT  
HAS THE DEEPEST FOLDER?

22. Provide all financial statements for the past five fiscal years, including, but not limited to, those filed with the federal and state Internal Revenue Service and Securities and Exchange Commission.
23. Identify all of Respondent's current assets and liabilities and the person(s) who currently own or are responsible for such assets and liabilities.
24. Identify all subsidiaries and parent corporations of Respondent.
25. Provide a copy of the most current Articles of Incorporation and By-Laws of Respondent.      UPDATED STOCK CERTIFICATES.
26. Identify the managers and majority shareholders of Respondent and the nature of their management duties or amount of shares held respectively.

1. William E. Boutwell
2. Clifford C. Boutwell, Grace E. Boutwell  
(father)' (mother)
3. See attached
4. MAD 0197225941 (photo copy enclosed)
5. No others to the best of my knowledge (I don't know of any others)
6. myself, my mother & father
7. I don't think this applies
8. Cliff Boutwell 1946-current Auto repair  
Agreement (there are no formal agreements)
9. The land was previously owned by Daniel Quinn A ?  
B None
10. Cliff Boutwell's Aberjona Auto Parts Inc.  
A. 1960-current  
B. Used Auto Parts sales  
C. The only thing that applies here is the inspection that took  
place around 1980. At that time they thought we ran a  
professional operation.
11. Used autoparts sales & warehousing previously used as an auto  
repair company & Gulf gas station
12. A. Concrete cinder block structure wall, used for sales & warehousing  
B. Only the wells installed by the EPA  
C. The septic system dumps directly into the city of Woburn lines  
in front of the property.  
D. 500 gallon diesel fuel installed approximately 1979  
E. 1950 front building  
1968 warehouse built  
1978-1979 sales area built

EPA0012

1960 approx rear storage sheds torn down  
1958-9 approx swamp filled with ledge from Route 128  
1985 fuel storage tanks removed (approx)

0097-0126

13. Unowown to me
14. The EPA has the only documents of this nature that I am aware of

15. No
16. No/none
17. Yes
- A. During the course of daily business activities, the vehicles we purchase will contain automotive/petroleum related materials
1. Approximately 1000 gallons of gasoline which we use in our own delivery vehicles
  2. Approximately 750 gallons engine oil --used to heat the sales area--burned in our waste oil heaters
  3. Anti-freeze --resold to the general public & repairing industry approx 200 gallons
- B. See A
- C. Insurance companies & general motoring public
- D. See A
- E. See A
- F. See attached
18. No
19. I have no record or knowledge of any such releases that have led into the environment
20. We do have a series of (3) floor drains in the dismantling area which collect into a M. D. C. approved (see #20 attached) separator. This was just serviced by Cyn Oil Company (#20 A,B,etc). After a period of ten (10) years this tank accumulated a total of six (6) barrells of "oily solids of which included approx ten (10) bags of an oil absorbion product to make the "oily liquid" an oily solid.
- B. Approximately 1978-1979
- C. See A
- D. See A.
21. U S F & G, Maryland (enclosed marked #21)
22. 1982-86 enclosed. 1987 is not completed; will forward when available
23. Enclosed with #22
24. None
- 25.
26. William E. Boutwell 100%

REDACTED - PERSONAL PRIVACY

EPA0013

0097-0127

General Manager/Owner







































































































MICHAEL G. LEVINE ASSOCIATES  
REAL ESTATE APPRAISERS - CONSULTANTS  
7 BRIDGE STREET, BILLERICA, MASSACHUSETTS 01821  
(617) 663-0190

December 14, 1989

M/M Clifford C. and Grace E. Boutwell  
278-280 Salem Street  
Woburn, MA 01801

Dear Mr. and Mrs. Boutwell:            Re: 278-280 Salem Street, Woburn, Ma.

Pursuant to your request, I have inspected the property located at 280 Salem Street, Woburn, Ma., for the purpose of estimating its market value as of December 2, 1989.

There are two parcels of real estate which are the subjects of this report, and which are more fully described as follows:

I. 5.18 acres of land located on the northerly side of Salem Street, Woburn, with improvements thereon, numbered 280 Salem Street. The improvements consist of two buildings. One buildings is a concrete block, industrial building with some finished office space on a partial second level. The other building is a 2 story wood frame single family dwelling.

II. 1.33 acres of vacant industrial land which abuts the first parcel to the west of the first parcel.

EPA0065

0097-0178

PAGE 1

SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS

Address: 278-280 Salem Street, Woburn, Massachusetts

Land Area: 5.18 acres on Salem Street  
1.33 acres on Salem Street

Improvements: 18,400 square feet in an industrial building.

Zoning: Industrial Park (IP)

Indicated Values:

Cost Approach: \$1,648,000

Income Approach: \$1,141,000

Sales Approach: \$1,463,000

Final Value Estimate: \$1,463,000

Date of Value Estimate: December 2, 1989

EPA0066

\_\_\_\_MICHAEL G. LEVINE, MRA\_\_\_\_

AREA AND NEIGHBORHOOD ANALYSIS

The City of Woburn is located 12 miles north of Boston and is easily accessible from Routes 128, 93, 3 and 38. It is an urban community with residential areas which are suburban in nature. Woburn's location and easy access to major highways to Boston have contributed to its growth, both residentially and industrially.

The subject is in the easterly section of the city, about 1 1/4 miles from Woburn Center. Salem Street is a through street from Woburn Center to Washington Street, which parallels Route 93 and traverses Cummings Industrial and Office Park. Access to Route 128 and Route 93 are convenient to the area. The immediate area is of mixed use, consisting of approximately 20% residential to the south and west of the subject and 80% commercial, office and industrial to the north, west and east of the subject. The area is commercial in nature, with bordering residential neighborhoods, and provides convenient access to all services and to Cummings Park, which is an employment center.

PROPERTY ANALYSIS

Parcel 1: The first parcel is a 5.18 acre parcel of land which slopes slightly at the rear and the right lot line and is at grade with the street. Reference to this parcel for purposes of this report will be as Parcel 1. Zoning is IP, which is Industrial Park. Current uses are permitted by zoning. The property is not located in a flood zone but has some wet areas to the rear of the property. There is a sewer easement at the left lot line which is not considered to adversely effect its value. All utilities, including municipal water and sewer, are connected to the site.

EPA0067

—MICHAEL G. LEVINE, MRA—

The improvements consist of two buildings. Near the left lot line, toward the front of the lot, is an industrial type building. The building is of concrete block construction on a concrete slab foundation with a flat, metal roof with tar and gravel finish. The first level consists primarily of production and warehouse space, with small makeshift offices and lavs, totaling approximately 9,715 square feet; and garage areas with large overhead doors, totaling approximately 3,195 square feet. The subject has a partial second level, consisting of supply and inventory storage areas and 5 offices, with lavs. The second level is about 5,490 square feet, of which approximately 1,000 square feet is office space with carpets and linoleum on the floors, paneled walls and suspended ceilings. There are thermopane windows. Heat is gas heat, FHW in the offices, FHA throughout the rest of the building. The office area also has air conditioning. Electrical service is sufficient for current uses. Total GBA is 18,400 square feet.

The other building is a 2 story wood frame, single family home, located at the front of the lot, near the industrial building. The house consists of a living room, kitchen, dining room, den, 3 bedrooms and a bath. There is a full basement with family room. There is no fireplace or porch. The house is about 80 years old, has a stone and rubble foundation, asphalt shingle roof, aluminum siding exterior, aluminum gutters and downspouts, double hung windows with combination storm windows. Floors are hardwood and carpet, walls are plaster, trim and doors wood. The bath has a linoleum floor and ceramic tile wainscot. Heat is FHW by oil; electrical service is 100 amps. There is no air conditioning. Other improvements include fencing, an oversized garage and an above ground pool surrounded by fencing. Gross living area above grade is approximately 1,850 square feet.

—MICHAEL G. LEVINE, MRA—

PAGE 4

Both buildings appear to be in average condition, with no major repairs needed.

Total assessed value of the property is \$750,000 for the current tax year, which results in a real estate tax liability of \$9,700.88. The property is assessed as a mixed use property. Property rights being appraised are fee simple. The property is identified by Assessor Map 16-69958-54371 and by Deed Reference Book 27, Page 567. 380 SF/m

Parcel 2: The second parcel is a 1.33 acre parcel of vacant land which slopes slightly at the rear and is at grade with the street. Reference to this parcel solely for purposes of this report will be as Parcel 2. Zoning is IP, Industrial Park. The property is not in a flood zone. There is a sewer easement at the right lot line which is not considered to adversely effect its value. All utilities, including municipal water and sewer, are available at the sight.

The land is vacant. The lot is triangular-shaped with adequate frontage for development.

Total assessed value of the property for the current tax year is \$180,000, giving a real estate tax liability of \$2,455.20. Property rights being appraised are fee simple. The property is identified by Assessor Map 16-69935-54342 and by Deed Reference Book 617, Page 1. 300 SF/m ST

EPA0069

\_\_\_\_\_  
MICHAEL G. LEVINE, MRA

0097-0182

VALUATION PROCESS

Highest and best use serves as a premise of value and is defined as that reasonable, probable and legally permissible use that will support the highest present value, in terms of money, of the subject property, as of the effective date of this report. It is my opinion that the highest and best use of Parcel 1 is that of its current use as an industrial building, with the dwelling being used as offices, which are permitted by the zoning and are entirely consistent with the neighborhood. The highest and best use for Parcel 2 is as industrial land for development.

The three conventional approaches to value of improved real estate were considered in connection with the subject property as follows:

1. The Cost Approach, including the estimate of reproduction cost new of the building, less depreciation from all sources, and adding to that the estimated land value.
2. The Direct Sales Comparison Approach, which involves the comparison of the subject property with sales of properties of similar utility.
3. The Income Approach which includes a projection of economic income less operating expenses to determine net operating income and then capitalizing that income stream into value.

DIRECT SALES COMPARISON APPROACH: Parcel 1

The following is an analysis of sales of similar properties or properties with similar utility in comparable nearby market areas. No time adjustments are indicated because the market has been essentially stable over the past 2 years.

Subject: As shown on the attached sketches, the subject consists of 2 buildings. The industrial building contains 18,400 square feet. The house contains 1,850 square feet.

EPA0070

MICHAEL G. LEVINE, MRA

PAGE 6

Sale 1: 16 Conn Street, Woburn

Sales price: \$1,500,000

Date of sale: June 1, 1989

Gross Building Area: 23,525 square feet

Price per square foot of GBA: \$63.76

Comments: This is an office/production building located on a 4.05 acre parcel of land. It is similar in construction and utility to the subject. It is comparably located and industrially zoned.

Sale 2: 39 Commerce Way, Woburn

Sales price: \$1,512,500

Date of sale: January 27, 1989

Gross Building Area: 18,000 square feet

Price per square foot of GBA: \$84.03

Comments: This is a newer building, with about 2,000 square feet of office area. It is located in the Woburn Industrial Park, which is considered a superior location, on a 2.32 acre lot.

Sale 3: 15 Cabot Road, Woburn

Sales price: \$1,220,000

Date of sale: June 29, 1989

Gross Building Area: 16,484 square feet

Price per square foot of GBA: \$74.01

Comments: This is a 10 year old building of similar construction located on a 1.21 acre lot. The building contains 16,484 square feet of which about 50% is office space. Superior to subject in use-mix and condition. Superior location in the Industrial Park.

EPA0071

—MICHAEL G. LEVINE, MRA—

0097-0184

PAGE 7

Sale 4: 5 Crescent Avenue, Woburn

Sales price: \$2,000,000

Date of sale: December 23, 1988

Gross Building Area: 29,464 square feet

Price per square foot of GBA: \$67.88

Comments: This is a 30 year old building on a 3.63 acre parcel of land, of similar construction and condition. Location is comparable. About 20% office space.

The typical purchaser of this type of property usually values the building on a per square foot basis. The market data available shows a value range of \$63.76 to \$84.03 per square foot. Based on differences in use-mix, location, size and condition, it is my opinion that a per square foot value of \$65.00 for the larger building is reasonable and justifiable. The house, converted to offices, is considered less valuable due to its more limited utility. Based on market data, a per square foot value of \$30, netting out costs of renovations, is considered reasonable and justifiable.

Total estimated value by the Direct Sales Comparison Approach is as follows:

18,400 x \$65 = \$1,196,000

1,850 x \$30 = \$ 55,500

Total estimated market value: \$1,251,500, rounded to \$1,250,000.

EPA0072

\_\_\_\_\_  
MICHAEL G. LEVINE, MRA

0097-0185

PAGE 8

DIRECT SALES COMPARISON APPROACH: Parcel 2

The following is an analysis of sales of vacant industrial land in the area.

Subject: 1.33 acre triangular parcel of vacant land industrially zoned.

Sale 1: 130 New Boston Street, Woburn

Sales price: \$965,000

Date of sale: September 21, 1989

Lot size: 2.51 acres

Price per acre: \$384,462

Comments: This parcel is in the Industrial Park, considered a greatly superior location for industrial development.

Sale 2: Undercover Way, Woburn

Sales price: \$615,000

Date of sale: June 28, 1989

Lot size: 3.02 acres

Price per acre: \$203,642

Comments: This is at the northern end of the Industrial Park, near Wilmington also considered a superior location for industrial development.

Sale 3: New Boston Street, Woburn

Sales price: \$600,000

Date of sale: May 5, 1988

Lot size: 2.5 acres

Price per acre: \$240,000

Comments: Also a superior location in the Industrial Park.

EPA0073

—————MICHAEL G. LEVINE, MRA—————

0097-0186

All sales cited are larger than the subject and more rectangular-shaped, thus providing greater development potential. All sales are also in a superior location for development. These factors decrease the per acre value of the subject. An estimated value of \$160,000 per acre is considered reasonable and justified, giving an estimated market value by the Direct Sales Comparison Approach of 1.33 acres x 160 = \$212,800, or rounded to \$213,000.

COST APPROACH

Real estate is comprised of two components, land and improvements. The sum total of the costs of land and improvements is an estimate of the market value by the Cost Approach.

Parcel 1: The cost approach is as follows, based on market data costs: Industrial Building.

GBA 18,400 sq.ft.	x	Reproduction Cost \$55.00	=	\$1,012,000
Less depreciation	30%			<u>\$303,600</u>
Depreciated Reproduction Cost				\$708,400

House: GBA 1,850	x	Reproduction Cost \$50.00		\$92,500
Less depreciation	50%			<u>\$46,250</u>
Depreciated Reproduction Cost				\$46,250

Total depreciated value of improvements: \$754,650

Land: 5.18 x \$175,000 x 75% \* = \$679,875

Total Estimated Value by the Cost Approach = \$1,434,525 rounded off to \$1,435,000.

Therefore, the indicated value by the Cost Approach is \$1,435,000 as of the effective date of this report.

—MICHAEL G. LEVINE, MRA—

\* Land value is based on the comparable sales of land shown in the Direct Sales Comparison Approach for Parcel 2, with an increase in value for Parcel 1 due to larger size and superior shape which provide superior development potential. The parcel is considered 75% developable.

Parcel 2: Cost Approach is not applicable to vacant land.

INCOME APPROACH

The Income Approach may be described as the "Investors Approach" to value. The approach shows what an investor would be prepared to pay for a property in anticipation of the benefits to be realized by its production of income over the years and by the possibility of future capital appreciation.

Most large industrial facilities in this area, as well as the subject property, would normally be owner occupied. If it was investor owned, it would be leased on a "triple net" basis, with the tenant or lessee responsible for all normal operating expenses typically associated with the operation of the property.

The owner does have some expense obligations such as reserves for replacement, including major structural repairs, insurance and possibly management. These expenses, for triple net buildings, generally range from 2% to 10%. As to vacancies, the industrial vacancy rate in Woburn is relatively low, but for a large property like the subject, it may take some time to find a tenant. In my opinion and experience, a 10% allowance for vacancies and expenses for a property such as the subject is considered reasonable and justifiable.

EPA0075

—————MICHAEL G. LEVINE, MRA—————

0097-0188

The Economic (or Market) rent for the existing improvements have been estimated at \$5.50 per square foot, triple net. This is based on the following rental survey.

Rental 1

100 Ashburton Avenue, Woburn

Tenants: Various

Lease terms: Various

Leased area: 25,500 square feet

Average square foot rental: \$5.50

Comments: This is an older industrial building with multiple tenants leasing anywhere from 2,000 to 7,000 square feet. It has a mix of office and warehouse space in a location similar to the subject. Leases are double net with each tenant paying for a proportionate share of real estate taxes.

Rental 2

30 Nashua Street, Woburn

Tenants: Various

Lease terms: Various

Leased area: 60,000 square feet

Square foot rental: \$6.00

Comments: This is an older industrial building in a non industrial park setting. It has been recently updated and renovated and is considered in above average condition. It has a mix of office and production space with the latter in predominance. All of the leases are triple net.

EPA0076

—————MICHAEL G. LEVINE, MRA—————

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Rental 3

76 Holton Street, Woburn

Tenants: Vacant

Lease terms: Various

Lease area: 5,600 square feet

Asking price: \$4.95 per square foot triple net

Comments: This is a mix of office and warehouse in the same area as the subject. This is the asking price quoted by the leasing agent. Inferior building, predominant warehouse space and little office.

Rental 4

46 Holton Street, Woburn

Tenants: Vacant

Lease terms: Various

Lease area: Up to 2,000 square feet

Asking price: \$3.95 per square foot triple net

Comments: This is an older building with a mix of office and warehouse space with the latter in predominance. This is again rent quoted by the leasing agent. Inferior building predominant warehouse space.

Rental 5

16 Conn Street, Woburn

Tenant: Dole and Bailey

Lease terms: Various

Lease area: 52,000 square feet

Price: \$3.90 per square foot triple net

Comments: This is an older building with an original lease dated April, 1979 with subsequent options subject only to CPI increases. Rent is considered below market, and property is considered inferior to the subject across the board.

—MICHAEL G. LEVINE, MRA—

EPA0077

0097-0190

PAGE 13

Rental 6

Holton Street, Woburn

Tenant: Atlas Van Line

Lease terms: Various

Lease area: 27,000 square foot

Asking price: \$4.90 per square foot triple net

Comments: Currently asking \$4.90 per square foot triple net. This is a 12 year old building with about 10 to 12% offices and the rest of the space considered to be for light manufacturing. Slightly inferior in type of finish, similar in location and condition.

Rental 7

215 Salem Street, Woburn

Tenants: Various

Lease terms: Various

Lease area: Various

Square foot rental: Asking \$6.00 to \$7.00 per square foot

Comments: Industrial with minimal office space. \$10 per square foot for 100% office space. This is a newer building considered superior to the subject.

Subject: The industrial building is rented in full. Total rents are \$7,500 per month, or \$90,000 per year. This equals \$4.89 per square foot, which is considered below market. The owner also pays some of the utilities. Rental 1 is considered the most comparable.

0097-0191

—————MICHAEL G. LEVINE, MRA—

EPA0078

The house is owner-occupied. Market rent, in its highest and best use, converted to office space, would be \$14.00 per square foot.

Based on the foregoing data, the Income Approach to value is as follows:

Gross Potential Rent:

18,400 sq.ft. x \$5.50	=	\$101,200
1,850 sq.ft. x \$14.00	=	<u>\$ 25,900</u>
Total Gross Rental =		\$127,100
Less 8% expense estimate =		<u>\$ 10,168</u>
Net Operating Income		\$116,932

Net operating income can now be transformed into value by virtue of the capitalization process. In order to develop an overall rate, the appraiser has used the Band of Investment Technique. This technique is important because it addresses cash flow requirements. The following capitalization rate is developed based on current money and mortgage market rates and prevailing investor conditions.

The following depicts how the appraiser developed what he feels to be a realistic and appropriate capitalization rate for the subject property:

<u>PORTION OF INVESTMENT</u>	<u>RATE</u>	<u>WEIGHTED RATE</u>
First Mortgage 70%	.1327439 *	.0929207
Equity 30%	.11 **	.0330
Overall Rate		.1259207
Rounded to:		12.6%

\* Annual Mortgage constant for 13% interest for 30 year term.  
\*\* Equity Dividend (cash on cash return)

0097-0192

MICHAEL G. LEVINE, MRA-

EPA0079

Dividing net income by rate indicates the following value:

\$116,932 divided by 12.6% = \$928,032.

Therefore, the indicated value by the Income Approach to Value, using the Capitalization of Income Approach of Parcel 1 is \$928,032, rounded to \$928,000.

Parcel 2: The Income Approach is not applicable to Parcel 2, vacant land. Therefore, this value is essentially equal to that of the Direct Sales Comparison Approach, \$213,000.

RECONCILIATION AND FINAL VALUE ESTIMATE

The following is a summary of the values indicated by the three approaches to value described within this report.

Direct Sales Comparison Approach:	\$1,250,000	+	\$213,000	=	\$1,463,000
Income Approach:	\$928,000	+	\$213,000	=	\$1,141,000
Cost Approach:	\$1,435,000	+	\$213,000	=	\$1,648,000

Each approach offers a logical, supportable and defensible estimate of value. Each approach entails the use of a number of variables.

The appraiser has reviewed a sufficient number of sales in the Direct Sales Comparison Approach which has certainly led to a logical, supportable and defensible estimate of value.

The Income Approach results in a significantly lower estimate of value. This points out the fact that this type of building is more suited for an owner-user as opposed to an investor.

The Cost Approach gives a higher value. This approach is given the least consideration as it entails the greatest amount of variables, particularly the estimation of depreciation and costs.

0097-0193

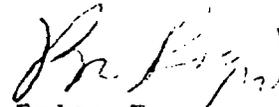
MICHAEL G. LEVINE, MRA-

EPA0080

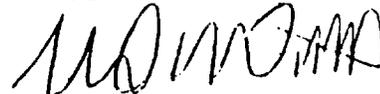
Therefore, it is the Direct Sales Comparison Approach which is given the greatest weight in this report with an indicated value of \$1,463,000 for the subject property as of the effective date of this report.

If you have any questions or comments, please do not hesitate to call

Sincerely yours,



Brian Rogers  
Appraiser



Michael G. Levine, MRA  
Review Appraiser

**DISCLAIMER ADDENDUM**

For purposes of the appraisal, we have assumed that the site contains no hazardous material nor is there any threat of either soil or groundwater contamination. Should either of these conditions be present, the value estimate would change.

EPA0082

—————MICHAEL G. LEVINE, MRA—————

0097-0195

FRONT OF SUBJECT



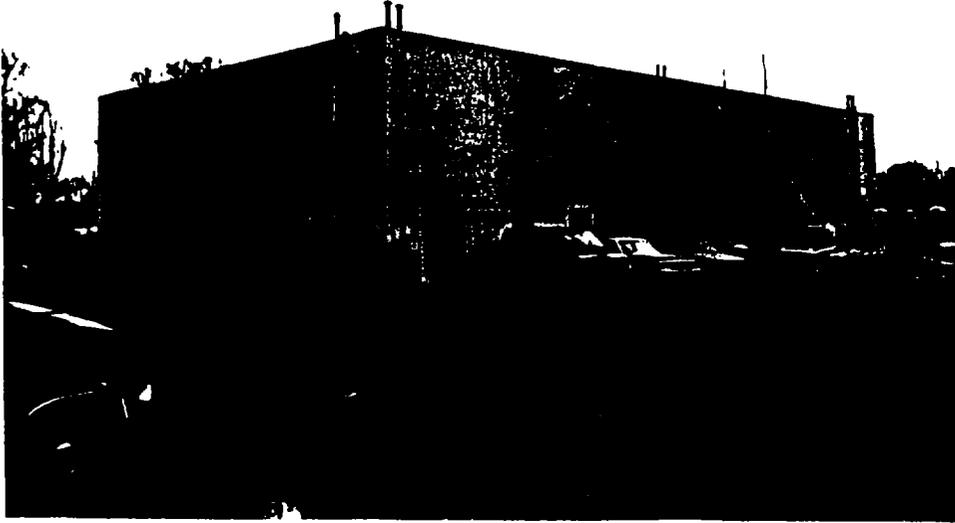
ADDITIONAL FRONT OF SUBJECT

EPA0083

—————MICHAEL G. LEVINE, MRA—————

0097-0196

REAR OF SUBJECT



ADDITIONAL LOT

EPA0084

— MICHAEL G. LEVINE, MRA —

0097-0197

FRONT OF DWELLING



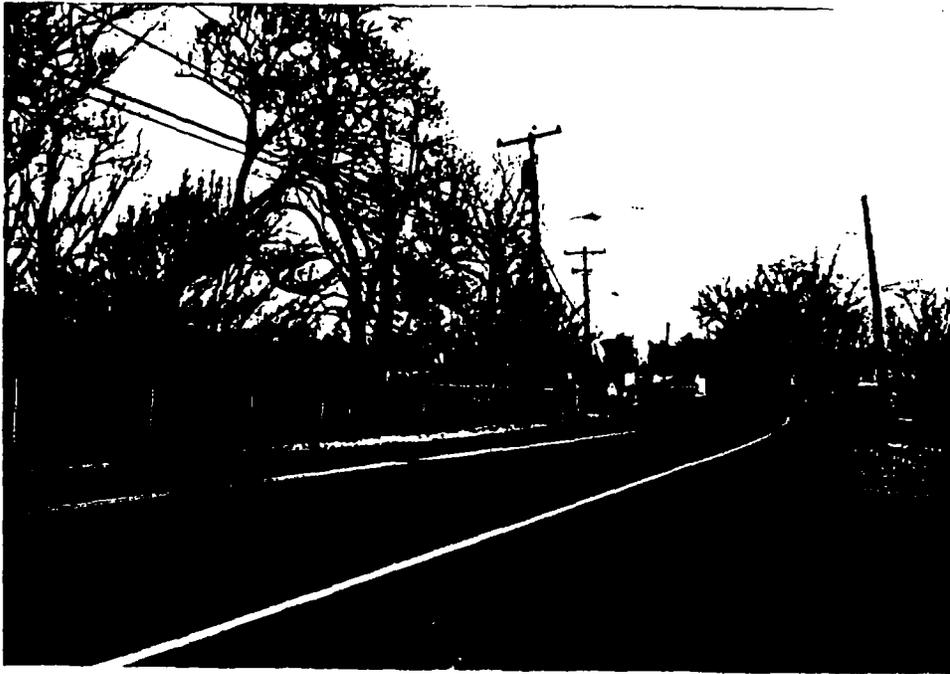
REAR OF DWELLING

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MICHAEL G. LEVINE, MRA

0097-0198

STREET SCENE EAST

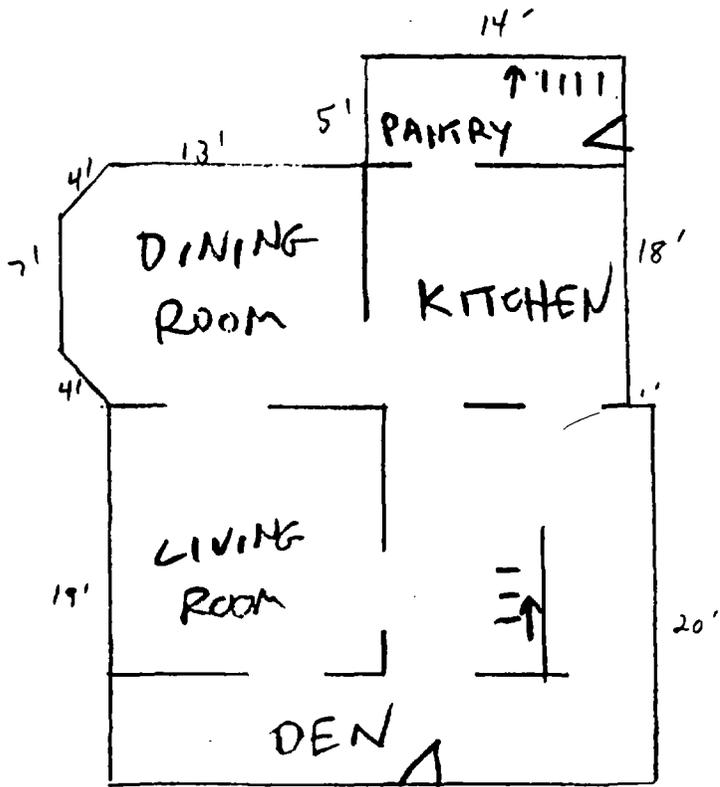


STREET SCENE WEST

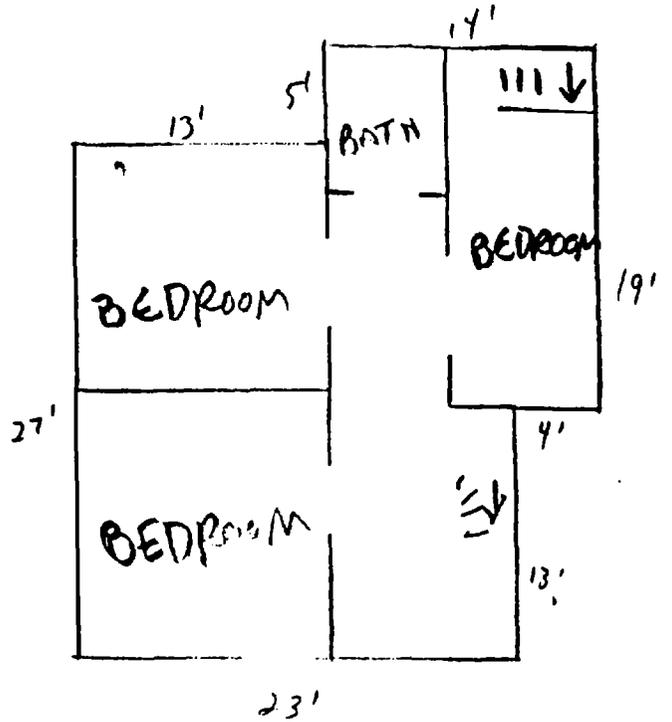
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MICHAEL G. LEVINE, MRA

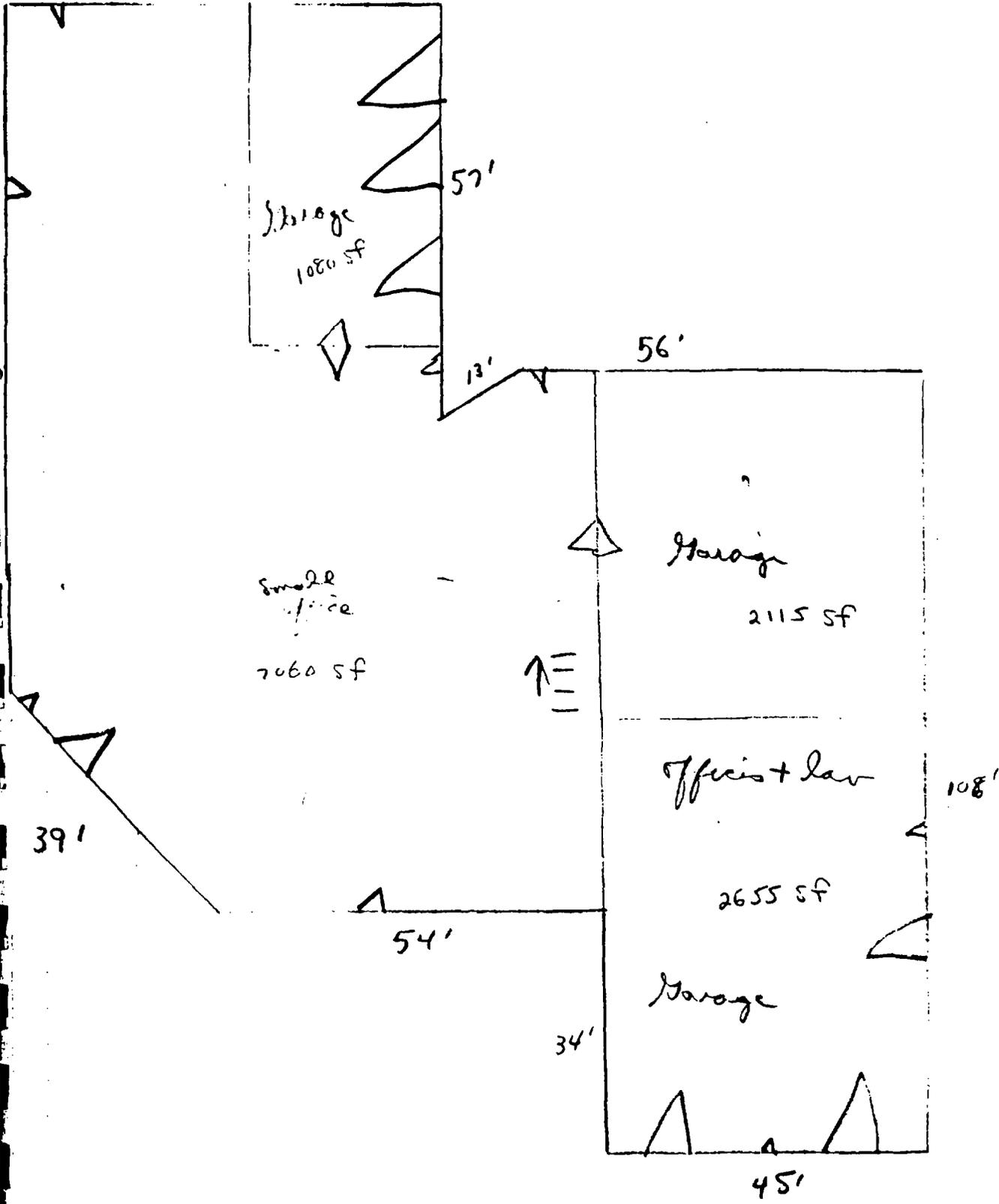
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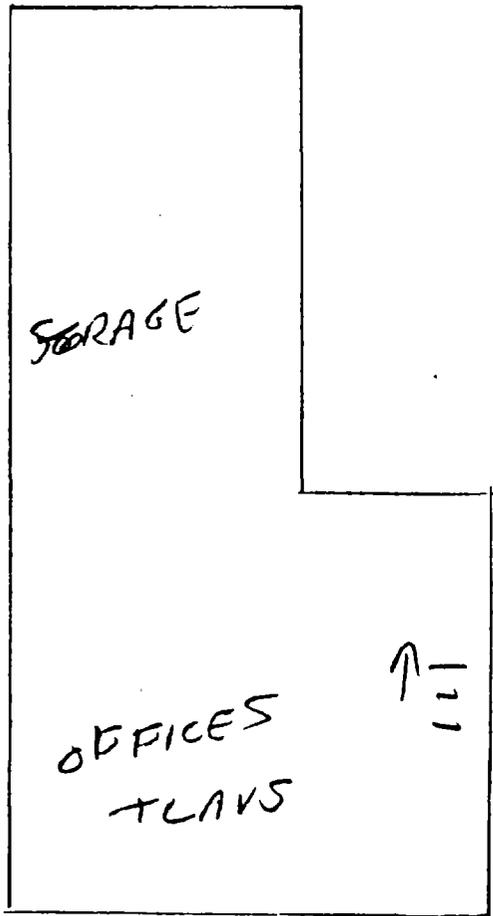
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EPA0088

0097-0201

2nd level



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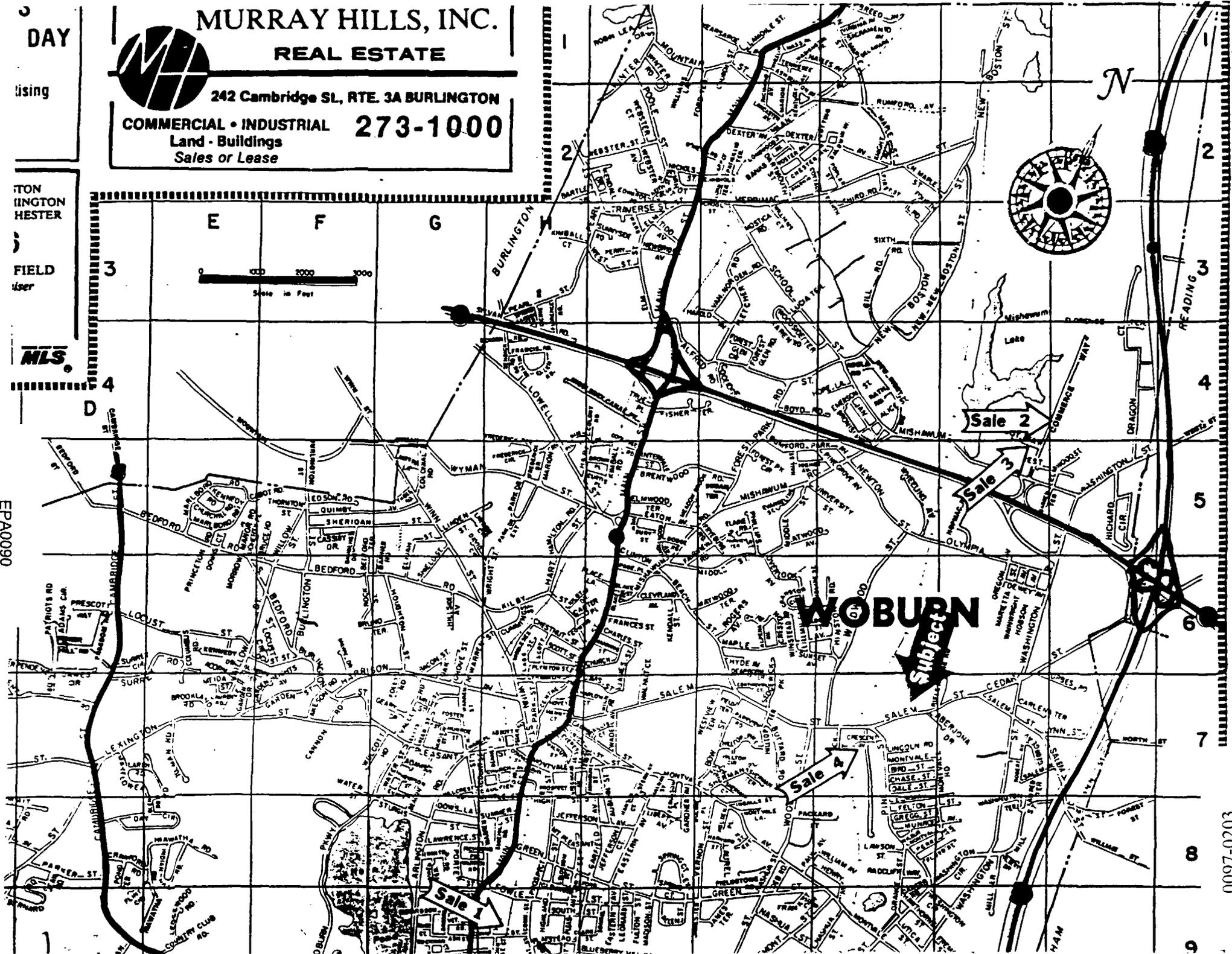
MURRAY HILLS, INC.

REAL ESTATE

242 Cambridge St., RTE. 3A BURLINGTON

COMMERCIAL • INDUSTRIAL 273-1000

Land • Buildings  
Sales or Lease



Sale 2

Sale 3

WOBURN

Subject

Sale 4

Sale 1

0097-0203

**CLOSING BINDER**  
*for:*  
***Clifford C. Boutwell and***  
***Grace P. Morse and William E. Boutwell***  
***Co-Executors of the Estate of Grace E. Boutwell***

***Sale of: 278-280 Salem Street, Woburn, MA***  
***To: 280 Salem Street, L.L.C.***

***Closing Date: October 19, 2001***

EPA0101

0097-0204

**TABLE OF  
CONTENTS**

EPA0102

0097-0205



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1. Purchase and Sale Agreement
2. Quitclaim Deed
3. Lease
4. Settlement Statement
5. Environmental Defense and Indemnification Agreement
6. Affidavit Concerning Estate Taxes of Grace E. Boutwell
7. Acceptance of Trustee of Robert C. Boutwell

DRAFT

This 19th day of September 200

1. PARTIES AND MAILING ADDRESSES

Clifford C. Boutwell and Clifford C. Boutwell, William Boutwell and Grace P. Morse, Trustees of the Grace E.\*

(fill in)

hereinafter called the SELLER, agrees to SELL and Apache, LLC, 1 Winning Road, P.O. Box 13, N. Billerica, MA 01852, or Seller's nominee designated at least 7 days prior to closing

2. DESCRIPTION (fill in and include title reference)

hereinafter called the BUYER or PURCHASER, agrees to BUY, upon the terms hereinafter set forth, the following described premises: The land with the buildings thereon known as 278-280 Salem Street, Woburn, MA, being more particularly described on Certificate of Title No. 187189, filed with the Registry of Deeds for the South Registry District of Middlesex County in Book 1066, Page 39 and on Certificate of Title No. 187191, Book 1066, Page 41.

3. BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES

(fill in or delete)

Included in the sale as a part of said premises are the buildings, structures, and improvements now thereon, and the fixtures belonging to the SELLER and used in connection therewith including, if any, all wall-to-wall carpeting, drapery rods, automatic garage door openers, venetian blinds, window shades, screens, screen doors, storm windows and doors, awnings, shutters, furnaces, heaters, heating equipment, stoves, ranges, oil and gas burners and fixtures appurtenant thereto, hot water heaters, plumbing and bathroom fixtures, garbage disposers, electric and other lighting fixtures, mantels, outside television antennas, fences, gates, trees, shrubs, plants, and, ONLY IF BUILT IN, refrigerators, air conditioning equipment, ventilators, dishwashers, washing machines and dryers; and N/A

4. TITLE DEED (fill in)

\* Include here by specific reference any restrictions, easements, rights and obligations in party walls not included in (b), leases, municipal and other liens, other encumbrances, and make provision to protect SELLER against BUYER's breach of SELLER's covenants in leases, where necessary.

Said premises are to be conveyed by a good and sufficient quitclaim deed running to the BUYER, or to the nominee designated by the BUYER by written notice to the SELLER at least seven days before the deed is to be delivered as herein provided, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except

- (a) Provisions of existing building and zoning laws;
(b) Existing rights and obligations in party walls which are not the subject of written agreement;
(c) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
(d) Any liens for municipal betterments assessed after the date of this agreement;
(e) Easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the current use of said premises;
(f) Easement Agreement dated November 3, 1997 by and between Wildwood Conservation Corporation, Beatrice Company and Clifford C. Boutwell and Grace E. Boutwell for utility lines.

5. PLANS

If said deed refers to a plan necessary to be recorded therewith the SELLER shall deliver such plan with the deed in form adequate for recording or registration.

6. REGISTERED TITLE

In addition to the foregoing, if the title to said premises is registered, said deed shall be in form sufficient to entitle the BUYER to a Certificate of Title of said premises, and the SELLER shall deliver with said deed all instruments, if any, necessary to enable the BUYER to obtain such Certificate of Title.

7. PURCHASE PRICE (fill in); space is allowed to write out the amounts if desired

The agreed purchase price for said premises is Six Hundred Thousand (\$600,000.00) \*\*\*\*\* dollars, of which

\$ 100,000.00 have been paid as a deposit this day and \$ 500,000.00 are to be paid at the time of delivery of the deed in cash, or by certified, cashier's, treasurer's or bank check(s).

\$ 600,000.00 TOTAL



8. TIME FOR PERFORMANCE; DELIVERY OF DEED (fill in) 10:00 O'clock A. M. On the day of  
 October 2001, at the office of Riemer & Braunstein, 7 New England Executive Park, Burlington, MA 01803. ~~Registry of Deeds~~. unless otherwise agreed upon in writing. It is agreed that time is of the essence of this agreement.
9. POSSESSION AND CONDITION OF PREMISE. (attach a list of exceptions, if any)  
 Full possession of said premises free of all tenants and occupants, except as herein provided, is to be delivered at the time of the delivery of the deed, said premises to be then (a) in the same condition as they now are, reasonable use and wear thereof excepted, and (b) not in violation of said building and zoning laws, and (c) in compliance with provisions of any instrument referred to in clause 4 hereof. The BUYER shall be entitled to personally enter said premises prior to the delivery of the deed in order to determine whether the condition thereof complies with the terms of this clause.
10. EXTENSION TO PERFECT TITLE OR MAKE PREMISES CONFORM (Change period of time if desired).  
 If the SELLER shall be unable to give title or to make conveyance, or to deliver possession of the premises, all as herein stipulated, or if at the time of the delivery of the deed the premises do not conform with the provisions hereof, then ~~any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto, unless the SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said premises conform to the provisions hereof, as the case may be, in which event the SELLER shall give written notice thereof to the BUYER at or before the time for performance hereunder and thereupon the time for performance hereof shall be extended for a period of thirty~~ ~~(30)~~ ~~days.~~ **410 (30) RLH** days. Seller shall not be obligated to expend more than ~~25,000.00~~ in exercising such reasonable efforts, exclusive of mortgages and\*
11. FAILURE TO PERFECT TITLE OR MAKE PREMISES CONFORM, etc.  
 If at the expiration of the extended time the SELLER shall have failed so to remove any defects in title, deliver possession, or make the premises conform, as the case may be, all as herein agreed, or if at any time during the period of this agreement or any extension thereof, the holder of a mortgage on said premises shall refuse to permit the insurance proceeds, if any, to be used for such purposes, then any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.
12. BUYER'S ELECTION TO ACCEPT TITLE  
 The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the said premises in their then condition and to pay therefore the purchase price without deduction, in which case the SELLER shall convey such title, except that in the event of such conveyance in accord with the provisions of this clause, if the said premises shall have been damaged by fire or casualty insured against, then the SELLER shall, unless the SELLER has previously restored the premises to their former condition, either  
 (a) pay over or assign to the BUYER, on delivery of the deed, all amounts recovered or recoverable on account of such insurance, less any amounts reasonably expended by the SELLER for any partial restoration, or  
 (b) if a holder of a mortgage on said premises shall not permit the insurance proceeds or a part thereof to be used to restore the said premises to their former condition or to be so paid over or assigned, give to the BUYER a credit against the purchase price, on delivery of the deed, equal to said amounts so recovered or recoverable and retained by the holder of the said mortgage less any amounts reasonably expended by the SELLER for any partial restoration.
13. ACCEPTANCE OF DEED  
 The acceptance of a deed by the BUYER or his nominee as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.
14. USE OF MONEY TO CLEAR TITLE  
 To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed. or soon thereafter in accordance with local conveyancing practices.
15. INSURANCE (Insert amount (list additional types of insurance and amounts as agreed))  
 Until the delivery of the deed, the SELLER shall maintain insurance on said premises as follows:  

Type of Insurance	Amount of Coverage
(a) Fire and Extended Coverage	*\$ as presently insured
(b)	
16. ADJUSTMENTS (list operating expenses, if any, or attach schedule)  
 Collected rents, ~~PROPERTY TAXES, WATER and sewer~~ **utility, water and sewer** and sewer use charges, operating expenses (if any) ~~according to the schedule attached hereto or set forth below~~, and taxes for the then current fiscal year, shall be apportioned and fuel value shall be adjusted, as of the day of performance of this agreement and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the BUYER at the time of delivery of the deed. Uncollected rents for the current rental period shall be apportioned if and when collected by either party.

\*liens created by or on behalf of SELLER.



- 27. CONSTRUCTION OF AGREEMENT: This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and enures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be cancelled, modified or amended only by a written instrument executed by both the SELLER and the BUYER. If two or more persons are named herein as BUYER their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties to it.
- 28. LEAD PAINT LAW: The parties acknowledge that, under Massachusetts law, whenever a child or children under six years of age resides in any residential premises in which any paint, plaster or other accessible material contains dangerous levels of lead, the owner of said premises must remove or cover said paint, plaster or other material so as to make it inaccessible to children under six years of age.
- 29. SMOKE DETECTORS: The SELLER shall, at the time of the delivery of the deed, deliver a certificate from the fire department of the city or town in which said premises are located stating that said premises have been equipped with approved smoke detectors in conformity with applicable law.
- 30. ADDITIONAL PROVISIONS: The initialed riders, if any, attached hereto, are incorporated herein by reference.  
SEE ADDENDUM A

FOR RESIDENTIAL PROPERTY CONSTRUCTED PRIOR TO 1978, BUYER MUST ALSO HAVE SIGNED LEAD PAINT "PROPERTY TRANSFER NOTIFICATION CERTIFICATION"

NOTICE: This is a legal document that creates binding obligations. If not understood, consult an attorney.

<p><u>Grace P. Morse</u>  SELLER (or spouse) Clifford C. Boutwell,  by Grace P. Morse, his Attorney-in-Fact  Taxpayer ID/Social Security No. _____</p>	<p>SELLER  Taxpayer ID/Social Security No. _____</p>
<p><u>Grace P. Morse pro- Grace P. Morse</u>  Clifford C. Boutwell, Trustee of the Grace  E. Boutwell Revocable Trust of January 26, 1990  APACHE, LLC  BUYER  Taxpayer ID/Social Security No. _____</p>	<p><u>Grace P. Morse</u>  Grace P. Morse, Trustees of the Grace E.  Boutwell Revocable Trust of January 26, 1990  BUYER  Taxpayer ID/Social Security No. _____</p>
<p><u>[Signature]</u>  BUYER  Taxpayer ID/Social Security No. _____</p>	<p><u>[Signature]</u>  William Boutwell, Trustee of the Grace E.  Boutwell Revocable Trust of January 26, 1990  BUYER  Taxpayer ID/Social Security No. _____</p>

\_\_\_\_\_  
Broker(s)

## ADDENDUM A TO PURCHASE AND SALE AGREEMENT

**DATE:** September 17, 2001

**SELLER:** Clifford C. Boutwell and Clifford C. Boutwell, William Boutwell and Grace P. Morse, Trustees of the Grace E. Boutwell Revocable Trust of January 26, 1990

**BUYER:** Apache, LLC

**PREMISES:** 278-280 Salem Street, Woburn, MA

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### 31. DEPOSIT

All deposits against the purchase price made hereunder shall be held in escrow by TARLOW, BREED, HART, MURPHY & RODGERS, P.C., as escrow agent, in an interest bearing account and, together with interest earned thereon, shall be duly accounted for at closing. Interest earned on the deposits shall follow the deposit. In the event of any dispute as to disposition of the deposits and interest thereon, the escrow agent shall, without liability, retain the deposits and interest until simultaneously directed by the parties in writing as to disposition thereof, and shall upon the written concurrence by both the Seller and Buyer, or of a court order, directing the distribution of the deposit and interest. So long as the escrow agent serves in good faith, Buyer and Seller jointly and severally agree to indemnify and hold the escrow agent harmless from any and all costs and expenses, including reasonable attorneys' fees, incurred in connection with any such dispute. The Deposit shall be nonrefundable to Buyer unless: (a) Buyer is unable to purchase the Premises due to a defect in the title to the Premises pursuant to Paragraph 4 hereof, or the failure of Seller to cure any such defect in title pursuant to Paragraph 10 hereof, or (b) Seller refuses to tender a deed to the Premises at the closing of this Agreement. At the Closing, the Deposit shall be paid to the Seller.

### 32. BROKERAGE INDEMNIFICATION

The Seller and the Buyer warrant to each other that each has dealt with no real estate broker, salesperson, finder, or other person entitled to a commission or fee in connection with this transaction, and each agrees to hold the other harmless from and indemnify the other against all damages, claims, losses and liabilities, including legal fees, incurred by the other as a result of the failure of this warranty. This paragraph shall survive delivery of the deed.

### 34. NOTICES

All notices required or permitted to be given hereunder shall be given in writing by registered or certified mail, proper postage prepaid, return receipt requested, and deposited with the United States Postal Service, or hand delivered, and shall be deemed given and effective when so mailed or hand delivered, addressed to the Seller or Buyer, as the case may be, at the following addresses:

In the case of Seller:

c/o Grace P. Morse  
REDACTED - PERSONAL PRIVACY

William Routwell  
REDACTED - PERSONAL PRIVACY

With a copy to:

Robert Orsi, Jr., Esq.  
Tarlow, Breed, Hart, Murphy & Rodgers, P.C.  
21 Custom House Street, 8th Fl.  
Boston, MA 02110  
Telephone: (617) 261-7600  
Facsimile: (617) 261-7673

In the case of Buyer:

Apache, LLC  
1 Winning Road,  
P.O. Box 13  
North Billerica, MA 01862

With a Copy to:

Robert C. Buckley, Esq.  
Riemer & Braunstein, LLP  
7 New England Executive Park  
Burlington, MA 01803  
Telephone: 781-273-2270  
Facsimile: 781-273-0776

Or in the case of either party to such different address as they may so designate by a notice sent as required above.

**35. ACCESS**

Buyer and his agents shall have a right of access to the Premises prior to the time specified for delivery of the Seller's deed for inspection and appraisal purposes. All entry shall be upon prior reasonable notice and accompanied by Seller or Seller's agent.

**36. MORTGAGE DOCUMENTS**

Seller agrees to deliver to the Buyer such affidavits, documents and certificates as may be customarily and reasonably requested by the Buyer's mortgagee, if any, its attorney, or Buyer's attorney, including but not limited to the following: (i) an affidavit to Buyer and Buyer's title insurance company certifying that there are no parties in possession of the premises, that all municipal liens including water, sewer and electricity pertaining to the premises have been paid, and that no work has been done on the premises which would entitle anyone to claim a mechanic's or materialmen's lien with respect to the premises; (ii) Internal Revenue Code, Section 1099B Form and W-9 Form; (iii) an affidavit that to the best

of Seller's knowledge there is no urea formaldehyde foam insulation on or in the premises; (iv) a statement certifying as to the financial terms of the Purchase and Sale Agreement, more commonly known as a purchase price allocation statement or a HUD-1 Settlement Statement, and (v) a trustee's certificate indicating that the trustee has been duly authorized by all of the beneficiaries of the Trust to enter into the within transaction and deliver the deed to the Buyer.

**37. TITLE STANDARDS**

Any matter which is the subject of a Title Standard or Practice Standard of the Massachusetts Conveyancers Association at the time of delivery of the Deed shall be governed by said Title Standard or Practice Standard to the extent applicable.

**39. AS IS**

Except as is otherwise expressly set forth herein, Seller expressly disclaims any representations concerning the physical condition of the land and any improvements constituting the premises. Seller has disclosed to Buyer that the property is part of a so-called "superfund site" and has delivered to Buyer material in its possession from the United States Environmental Protection Agency concerning the site. Buyer acknowledges that Buyer is purchasing the premises "AS IS" with full knowledge that the property may be contaminated and subject to regulation by the EPA, and that Buyer will be assuming certain liabilities by purchasing the property, and Buyer has been afforded the opportunity to consult with counsel of Buyer's choice concerning the property. Buyer acknowledges that Seller has made no warranties or representations on which the Buyer has relied with respect to or in connection with the condition of the premises. Buyer's agreement in this paragraph shall survive the delivery of the deed.

Buyer understands and agrees that there is a substantial amount of personal property on the premises that is or may be the property of Cliff Boutwell's Aberjona Auto Parts, Inc., or Aberjona Auto Parts, Inc. ("Aberjona"). Notwithstanding any provision to the contrary contained herein, Seller shall not be responsible for removing any of such property prior to the closing. Seller understands that the Buyer may have certain discussions with Aberjona concerning the Buyer's potential purchase of such personal property, and Seller expressly disclaims any interest in such property.

Seller will deliver the property at closing in its current condition, and is not responsible for or liable for removing any personal property from the premises, regardless of who might actually own such property. This would include but not be limited to any hazardous materials that might be stored in drums on the property.

**40. PERMITTED ENCUMBRANCES**

The Buyer acknowledges and agrees that the following encumbrances on the property are acceptable to the Buyer:

- (a) Easement agreement dated November 3, 1997 by and between Wildwood Conservation Corporation, Beatrice Company and Clifford C. Boutwell and Grace E. Boutwell for utility lines.

**41. LEASE WITH CALLAHAN'S AUTO SERVICE.**

The Property is to be conveyed subject to a lease between the Seller and Callahan's Auto Service. The lease will be executed at the closing, and will expire one year from the date of sale of the Property. Rent pursuant to the lease will be \$2,189 per month for each month of the term of the lease. The lease will be in the form of Exhibit A attached hereto and incorporated herein by reference.

**42. SELLER'S RIGHT TO REMAIN ON THE PROPERTY.**

The Seller will be allowed to remain in the residential house on the Property pursuant to a lease that the parties will sign at the closing. Rent will be \$10.00 per year, and the Seller shall have the right to terminate the lease at any time during the term upon at least thirty (30) days prior notice from Seller. Seller shall be responsible for paying all utilities associated with the house on the property, and a pro rata share of the property taxes, which share shall be equal to \_\_\_% of such taxes. The lease shall be in the form of Exhibit B attached hereto and incorporated herein. At closing, the Seller shall prepay five year's Rental (\$50.00)

**43. EPA SUPERFUND SITE.**

Buyer acknowledges receipt from Seller of correspondence from the United States Environmental Protection Agency indicating that the Property is located within the boundaries of the Wells G&H Superfund Site. Buyer is purchasing the property with knowledge that, as owner of the Property, Buyer may have certain obligations and liabilities concerning the Property and the Superfund Site. Buyer assumes all obligations and liabilities of Seller in connection with the Superfund Site, and hereby agrees to indemnify Seller against all loss, damage, claims and liabilities of every type and nature concerning the Superfund Site.

Buyers understand that petroleum products and/or other potentially hazardous substances are located at the Property, including but not limited to in air, soil and groundwater, and in personal property, equipment and storage containers and waste materials located at the Property (collectively, the "Contamination"), and further understands as follows:

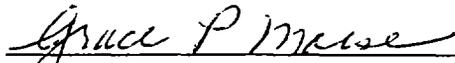
- The Property is within the boundaries and is part of what is referred to as the "Wells G & H Superfund Site" (the "Site"), which is subject to regulatory control and oversight by the United States Environmental Protection Agency (the "EPA") acting under the authority the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. ("CERCLA").
- Personal property (including, but not limited to, equipment, automobiles, automobile parts, automobile-related wastes, batteries, storage vessels, etc.) and improvements exist at the Property which may belong to Sellers or to third parties or businesses currently located and/or operating, or which were formerly located and/or operated, at the Property including but not limited to Aberjona Auto Parts, Inc., William Boutwell, Consolidated Auto Recyclers, Inc. and Callahan's Automotive Service. In selling the Property, Sellers have relinquished any rights they might have to such personal property and improvements and Buyers have agreed to acquire such personal property and improvements subject to the claims of any third parties thereto.
- The EPA and other governmental entities have the authority to take actions in connection with the Contamination at the Property, including but not limited to

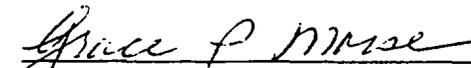
ordering the owners of the Property or other potentially responsible parties to conduct response actions at the Property. Upon purchasing the Property, Buyer will become a potentially responsible party under CERCLA. Sellers would likely also be considered potentially responsible parties. Potentially responsible parties who have incurred response costs at the Site possess the authority to seek contribution from other potentially responsible parties.

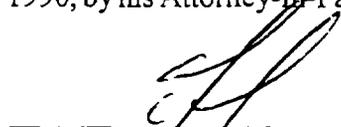
- The EPA or its agents have conducted investigations of the Site, including at the Property, and reports of those investigations are available from the EPA. Sellers have not conducted their own independent investigations of the Contamination at the Property.

Buyers have nevertheless agreed to purchase the Property and Sellers have agreed to sell the Property to Buyers on the condition that Buyers take complete responsibility for the remediation of the contamination at the Property and defend and indemnify Sellers as set forth herein. The Indemnity will be in the form of Exhibit C.

Executed as a sealed instrument this \_\_\_\_ day of September, 2001.

  
Clifford C. Boutwell, Seller, by his Attorney-in-Fact, Grace P. Morse

  
Clifford C. Boutwell, Trustee of the Grace E. Boutwell Revocable Trust of January 26, 1990, by his Attorney-in-Fact, Grace P. Morse

  
William Boutwell, Trustee of the Grace E. Boutwell Revocable Trust of January 26, 1990

  
Grace P. Morse, Trustees of the Grace E. Boutwell Revocable Trust of January 26, 1990

APACHE, LLC

By: 

Its:

STANDARD FORM COMMERCIAL LEASE

FROM THE OFFICE OF Tarlow, Breed, Hart, Murphy & Rodgers, P.C. 21 Custom House Street Boston, MA 02110

1. PARTIES

(fill in)

LESSOR, which expression shall include Apache, LLC heirs, successors, and assigns where the context so admits, does hereby lease to Callahan's Auto Service, Inc. 278-280 Salem Street, Woburn, MA 01801

2. PREMISES

(fill in and include, if applicable, suite number, floor number, and square feet)

LESSEE, which expression shall include successors, executors, administrators, and assigns where the context so admits, and the LESSEE hereby leases the following described premises: The automobile service building located at 278-280 Salem Street, Woburn, MA and the ancillary parking, all as shown on the site plan attached hereto as Exhibit A

together with the right to use in common, with others entitled thereto, the hallways, stairways, and elevators, necessary for access to said leased premises, and lavatories nearest thereto.

3. TERM

(fill in)

The term of this lease shall be for one (1) year commencing on 2001 and ending on 2003

4. RENT

(fill in)

The LESSEE shall pay to the LESSOR fixed rent at the rate of Twenty-Six Thousand Two \* dollars per year, payable in advance in monthly installments of \$2,189.00 subject to proration in the case of any partial calendar month. All rent shall be payable without offset or deduction. \*Hundred Sixty-Eight (\$21,268.00)

5. SECURITY DEPOSIT

(fill in)

Upon the execution of this lease, the LESSEE shall pay to the LESSOR the amount of 0 dollars, which shall be held as a security for the LESSEE's performance as herein provided and refunded to the LESSEE at the end of this lease, without interest, subject to the LESSEE's satisfactory compliance with the conditions hereof.

6. RENT ADJUSTMENT

IN ANY YEAR COMMENCING WITH THE FISCAL YEAR XXXXX THE LESSEE SHALL PAY TO THE LESSOR AS ADDITIONAL RENT HEREUNDER, WHEN AND AS DESIGNATED BY NOTICE IN WRITING BY LESSOR XXXXX PER YEAR ANY INCREASE IN REAL ESTATE TAXES ON THE LAND AND BUILDINGS OF WHICH THE LEASED PREMISES ARE A PART, ARE IN EXCESS OF THE AMOUNT OF THE REAL ESTATE TAXES THEREON FOR THE FISCAL YEAR XXXXX (HEREINAFTER CALLED THE "BASE YEAR"). LESSEE WILL PAY TO LESSOR AS ADDITIONAL RENT HEREUNDER, WHEN AND AS DESIGNATED BY NOTICE IN WRITING BY LESSOR XXXXX PER YEAR ANY INCREASE IN REAL ESTATE TAXES THAT MAY OCCUR EACH YEAR OF THE TERM OF THIS LEASE OR ANY EXTENSION OR RENEWAL THEREOF AND PROPORTIONATELY FOR ANY PART OF A FISCAL YEAR IF THE LESSOR OBTAINS AN ABATEMENT OF ANY SUCH EXCESS REAL ESTATE TAX, A PROPORTIONATE SHARE OF SUCH ABATEMENT, LESS THE REASONABLE AND REASONABLE SHARE OF SUCH ABATEMENT, SHALL BE REIMBURSED TO THE LESSEE.

A. TAX ESCALATION (fill in or delete)

B. OPERATING COST ESCALATION (fill in or delete)

THE LESSEE SHALL PAY TO THE LESSOR AS ADDITIONAL RENT HEREUNDER WHEN AND AS DESIGNATED BY NOTICE IN WRITING BY LESSOR XXXXX PER YEAR ANY INCREASE IN OPERATING EXPENSES OVER THOSE INCURRED DURING THE CALENDAR YEAR XXXXX. OPERATING EXPENSES ARE DEFINED FOR THE PURPOSES OF THIS AGREEMENT AS ALL COSTS AND EXPENSES INCURRED BY THE LESSOR DURING ANY CALENDAR YEAR IN CONNECTION WITH THE OPERATION AND MAINTENANCE OF THE LAND AND BUILDINGS OF WHICH THE LEASED PREMISES ARE A PART INCLUDING WITHOUT LIMITATION INSURANCE PREMIUMS, LICENSE FEES, SEASONAL SERVICES, LANDSCAPING AND SNOW REMOVAL, EMPLOYEE COMPENSATION AND fringe benefits, EQUIPMENT AND MATERIALS, utility costs, REPAIRS, MAINTENANCE AND ANY CAPITAL EXPENDITURE (REASONABLY AMORTIZED WITH INTEREST) INCURRED IN ORDER TO REDUCE OTHER OPERATING EXPENSES BY COMPLYING WITH ANY GOVERNMENTAL REQUIREMENTS.

THIS INCREASE SHALL BE PROVIDED SHOULD THIS LEASE BE IN EFFECT WITH RESPECT TO ONLY A PORTION OF ANY CALENDAR YEAR.

C. CONSUMER PRICE ESCALATION (fill in or delete)

LESSEE AGREES THAT THE INDEX IS THE CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND CLERICAL WORKERS (CPI-U) AVERAGE, ALL ITEMS 1982-84=100 (HEREINAFTER REFERRED TO AS THE "PRICE INDEX") PUBLISHED BY THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR OR ANY COMPARABLE SUCCESSOR OR SUBSTITUTE INDEX DESIGNATED BY THE LESSOR AND ADJUSTED TO THE INDEX VALUE FOR THE BASE MONTH OF XXXXX AND ABOVE THE COST OF LIVING AS PUBLISHED BY THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR OR ANY COMPARABLE SUCCESSOR OR SUBSTITUTE INDEX DESIGNATED BY THE LESSOR. THE FIXED RENT SHALL BE ADJUSTED IN ACCORDANCE WITH SUB-PARAGRAPH (2) OF THIS ARTICLE.



~~XI. COVENANTS. AS OF THE FIRST ANNIVERSARY OF THE COMMENCEMENT DATE, THERE SHALL BE AN ADJUSTMENT (HEREINAFTER REFERRED TO AS "ADJUSTMENT") IN THE FIXED RENT, CALCULATED BY MULTIPLYING THE FIXED RENT SET FORTH IN ARTICLE 5 BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE PRICE INDEX FOR THE MONTH OF \_\_\_\_\_ AND THE DENOMINATOR OF WHICH (FOR EACH YEAR THEREAFTER) SHALL BE THE BASE PRICE INDEX PROVIDED. HOWEVER, NO ADJUSTMENT SHALL BE MADE IF THE FIXED RENT IS PREVIOUSLY PAYABLE IN ACCORDANCE WITH THIS ARTICLE OR ARTICLE 4.~~

~~XII. IN THE EVENT THE PRICE INDEX BASED UPON THE 1982-84 AVERAGE OF 100 AS THE BASIS OF CALCULATION, OR IF A SUBSTANTIAL CHANGE IS MADE IN THE TERMS OR NUMBER OF ITEMS CONTAINED IN THE PRICE INDEX, THEN THE PRICE INDEX SHALL BE ADJUSTED TO THE FIGURE THAT WOULD HAVE BEEN ARRIVED AT HAD THE MANNER OF COMPUTING THE PRICE INDEX IN EFFECT AT THE DATE OF THIS LEASE NOT BEEN CHANGED.~~

7. UTILITIES

The LESSEE shall pay, as they become due, all bills for electricity and other utilities (whether they are used for furnishing heat or other purposes) that are furnished to the leased premises and presently separately metered, and all bills for fuel furnished to a separate tank servicing the leased premises exclusively. The LESSOR agrees to provide all other utility service and to furnish reasonably hot and cold water and reasonable heat and air conditioning\* (except to the extent that the same are furnished through separately metered utilities or separate fuel tanks as set forth above) to the leased premises, the hallways, stairways, elevators, and lavatories during normal business hours on regular business days of the heating and air conditioning\* seasons of each year, to furnish elevator service and to light passageways and stairways during business hours, and to furnish such cleaning service as is customary in similar buildings in said city or town, all subject to interruption due to any accident, to the making of repairs, alterations, or improvements, to labor difficulties, to trouble in obtaining fuel, electricity, service, or supplies from the sources from which they are usually obtained for said building, or to any cause beyond the LESSOR's control.

\*delete  
"air conditioning"  
if not applicable

LESSOR shall have no obligation to provide utilities or equipment other than the utilities and equipment within the premises as of the commencement date of this lease. In the event LESSEE requires additional utilities or equipment, the installation and maintenance thereof shall be the LESSEE's sole obligation, provided that such installation shall be subject to the written consent of the LESSOR.

8. USE OF LEASED PREMISES  
(fill in)

The LESSEE shall use the leased premises only for the purpose of Automobile Service, repair and sales

9. COMPLIANCE WITH LAWS

The LESSEE acknowledges that no trade or occupation shall be conducted in the leased premises or use made thereof which will be unlawful, improper, noisy or offensive, or contrary to any law or any municipal by-law or ordinance in force in the city or town in which the premises are situated. Without limiting the generality of the foregoing (a) the LESSEE shall not bring or permit to be brought or kept in or on the leased premises or elsewhere on the LESSOR's property any hazardous, toxic, inflammable, combustible or explosive fluid, material, chemical or substance, including without limitation any item defined as hazardous pursuant to Chapter 21E of the Massachusetts General Laws; and (b) the LESSEE shall be responsible for compliance with requirements imposed by the Americans with Disabilities Act relative to the layout of the leased premises and any work performed by the LESSEE therein.

10. FIRE INSURANCE

The LESSEE shall not permit any use of the leased premises which will make voidable any insurance on the property of which the leased premises are a part, or on the contents of said property or which shall be contrary to any law or regulation from time to time established by the New England Fire Insurance Rating Association, or any similar body succeeding to its powers. The LESSEE shall on demand reimburse the LESSOR, and all other tenants, all extra insurance premiums caused by the LESSEE's use of the premises.

11. MAINTENANCE

The LESSEE agrees to maintain the leased premises in good condition, damage by fire and other casualty only excepted, and whenever necessary, to replace plate glass and other glass therein, acknowledging that the leased premises are now in good order and the glass whole. The LESSEE shall not permit the leased premises to be overloaded, damaged, stripped, or defaced, nor suffer any waste. LESSEE shall obtain written consent of LESSOR before erecting any sign on the premises.

A. LESSEE'S OBLIGATIONS

B. LESSOR'S OBLIGATIONS

The LESSOR agrees to maintain the structure of the building of which the leased premises are a part in the same condition as it is at the commencement of the term or as it may be put in during the term of this lease, reasonable wear and tear, damage by fire and other casualty only excepted, unless such maintenance is required because of the LESSEE or those for whose conduct the LESSEE is legally responsible.

12. ALTERATIONS — ADDITIONS

The LESSEE shall not make structural alterations or additions to the leased premises, but may make non-structural alterations provided the LESSOR consents thereto in writing, which consent shall not be unreasonably withheld or delayed. All such allowed alterations shall be at LESSEE's expense and shall be in quality at least equal to the present construction. LESSEE shall not permit any mechanics' liens, or similar liens, to remain upon the leased premises for labor and material furnished to LESSEE or claimed to have been furnished to LESSEE in connection with work of any character performed or claimed to have been performed at the direction of LESSEE and shall cause any such lien to be released of record forthwith without cost to LESSOR. Any alterations or improvements made by the LESSEE shall become the property of the LESSOR at the termination of occupancy as provided herein.

13. ASSIGNMENT — SUBLEASING

The LESSEE shall not assign or sublet the whole or any part of the leased premises without LESSOR's prior written consent. Notwithstanding such consent, LESSEE shall remain liable to LESSOR for the payment of all rent and for the full performance of the covenants and conditions of this lease.

14. SUBORDINATION This lease shall be subject and subordinate to any and all mortgages, deeds of trust and other instruments in the nature of a mortgage, now or at any time hereafter, a lien or liens on the property of which the leased premises are a part and the LESSEE shall, when requested, promptly execute and deliver such written instruments as shall be necessary to show the subordination of this lease to said mortgages, deeds of trust or other such instruments in the nature of a mortgage.
15. LESSOR'S ACCESS The LESSOR or agents of the LESSOR may, at reasonable times, enter to view the leased premises and may remove placards and signs not approved and affixed as herein provided, and make repairs and alterations as LESSOR should elect to do and may show the leased premises to others, and at any time within three (3) months before the expiration of the term, may affix to any suitable part of the leased premises a notice for letting or selling the leased premises or property of which the leased premises are a part and keep the same so affixed without hindrance or molestation.
16. INDEMNIFICATION AND LIABILITY (fill in) The LESSEE shall save the LESSOR harmless from all loss and damage occasioned by anything occurring on the leased premises unless caused by the negligence or misconduct of the LESSOR, and from all loss and damage wherever occurring occasioned by any omission, fault, neglect or other misconduct of the LESSEE. The removal of snow and ice from the sidewalks bordering upon the leased premises shall be Lessee's responsibility.
17. LESSEE'S LIABILITY INSURANCE (fill in) The LESSEE shall maintain with respect to the leased premises and the property of which the leased premises are a part comprehensive public liability insurance in the amount of \$1,000,000.00 with property damage insurance in limits of \$500,000.00 in responsible companies qualified to do business in Massachusetts and in good standing therein insuring the LESSOR as well as LESSEE against injury to persons or damage to property as provided. The LESSEE shall deposit with the LESSOR certificates for such insurance at or prior to the commencement of the term, and thereafter within thirty (30) days prior to the expiration of any such policies. All such insurance certificates shall provide that such policies shall not be cancelled without at least ten (10) days prior written notice to each assured named therein.
18. FIRE, CASUALTY — EMINENT DOMAIN Should a substantial portion of the leased premises, or of the property of which they are a part, be substantially damaged by fire or other casualty, or be taken by eminent domain, the LESSOR may elect to terminate this lease. When such fire, casualty, or taking renders the leased premises substantially unsuitable for their intended use, a just and proportionate abatement of rent shall be made, and the LESSEE may elect to terminate this lease if:  
 (a) The LESSOR fails to give written notice within thirty (30) days of intention to restore leased premises, or  
 (b) The LESSOR fails to restore the leased premises to a condition substantially suitable for their intended use within ninety (90) days of said fire, casualty or taking.  
 The LESSOR reserves, and the LESSEE grants to the LESSOR, all rights which the LESSEE may have for damages or injury to the leased premises for any taking by eminent domain, except for damage to the LESSEE's fixtures, property, or equipment.
19. DEFAULT AND BANKRUPTCY (fill in) In the event that:  
 (a) The LESSEE shall default in the payment of any installment of rent or other sum herein specified and such default shall continue for ten (10) days after written notice thereof; or  
 (b) The LESSEE shall default in the observance or performance of any other of the LESSEE's covenants, agreements, or obligations hereunder and such default shall not be corrected within thirty (30) days after written notice thereof; or  
 (c) The LESSEE shall be declared bankrupt or insolvent according to law, or, if any assignment shall be made of LESSEE's property for the benefit of creditors,  
 then the LESSOR shall have the right thereafter, while such default continues, to re-enter and take complete possession of the leased premises, to declare the term of this lease ended, and remove the LESSEE's effects, without prejudice to any remedies which might be otherwise used for arrears of rent or other default. The LESSEE shall indemnify the LESSOR against all loss of rent and other payments which the LESSOR may incur by reason of such termination during the residue of the term. If the LESSEE shall default, after reasonable notice thereof, in the observance or performance of any conditions or covenants on LESSEE's part to be observed or performed under or by virtue of any of the provisions in any article of this lease, the LESSOR, without being under any obligation to do so and without thereby waiving such default, may remedy such default for the account and at the expense of the LESSEE. If the LESSOR makes any expenditures or incurs any obligations for the payment of money in connection therewith, including but not limited to, reasonable attorney's fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred, with interest at the rate of 15 per cent per annum and costs, shall be paid to the LESSOR by the LESSEE as additional rent.
20. NOTICE (fill in) Any notice from the LESSOR to the LESSEE relating to the leased premises or to the occupancy thereof, shall be deemed duly served, if left at the leased premises addressed to the LESSEE, or if mailed to the leased premises, registered or certified mail, return receipt requested, postage prepaid, addressed to the LESSEE. Any notice from the LESSEE to the LESSOR relating to the leased premises or to the occupancy thereof, shall be deemed duly served, if mailed to the LESSOR by registered or certified mail, return receipt requested, postage prepaid, addressed to the LESSOR at such address as the LESSOR may from time to time advise in writing. All rent notices shall be paid and sent to the LESSOR at
21. SURRENDER The LESSEE shall at the expiration or other termination of this lease remove all LESSEE's goods and effects from the leased premises, (including, without hereby limiting the generality of the foregoing, all signs and lettering affixed or painted by the LESSEE, either inside or outside the leased premises). LESSEE shall deliver to the LESSOR the leased

premises and all keys, locks thereto, and other fixtures connected therewith and all alterations and additions made to or upon the leased premises, in good condition, damage by fire or other casualty only excepted. In the event of the LESSEE's failure to remove any of LESSEE's property from the premises, LESSOR is hereby authorized, without liability to LESSEE for loss or damage thereto, and at the sole risk of LESSEE, to remove and store any of the property at LESSEE's expense, or to retain same under LESSOR's control or to sell at public or private sale, without notice any or all of the property not so removed and to apply the net proceeds of such sale to the payment of any sum due hereunder, or to destroy such property.

22. BROKERAGE  
(fill in or delete)

The Broker(s) named herein N/A

warrant(s) that he (they) is (are) duly licensed as such by the Commonwealth of Massachusetts, and join(s) in this agreement and become(s) a party hereto, insofar as any provisions of this agreement expressly apply to him (them), and to any amendments or modifications of such provisions to which he (they) agree(s) in writing.

LESSOR agrees to pay the above-named Broker upon the term commencement date a fee for professional services of

or pursuant to Broker's attached commission schedule. The LESSEE warrants and represents that it has dealt with no other broker entitled to claim a commission in connection with this transaction and shall indemnify the LESSOR from and against any such claim, including without limitation reasonable attorneys' fees incurred by the LESSOR in connection therewith.

23. CONDITION OF PREMISES

Except as may be otherwise expressly set forth herein, the LESSEE shall accept the leased premises "as is" in their condition as of the commencement of the term of this lease, and the LESSOR shall be obligated to perform no work whatsoever in order to prepare the leased premises for occupancy by the LESSEE.

24. FORCE MAJEURE

In the event that the LESSOR is prevented or delayed from making any repairs or performing any other covenant hereunder by reason of any cause reasonably beyond the control of the LESSOR, the LESSOR shall not be liable to the LESSEE therefor nor, except as expressly otherwise provided in case of casualty or taking, shall the LESSEE be entitled to any abatement or reduction of rent by reason thereof, nor shall the same give rise to a claim by the LESSEE that such failure constitutes actual or constructive eviction from the leased premises or any part thereof.

25. LATE CHARGE

If rent or any other sum payable hereunder remains outstanding for a period of ten (10) days, the LESSEE shall pay to the LESSOR a late charge equal to one and one-half percent (1.5%) of the amount due for each month or portion thereof during which the arrearage continues.

26. LIABILITY OF OWNER

No owner of the property of which the leased premises are a part shall be liable hereunder except for breaches of the LESSOR's obligations occurring during the period of such ownership. The obligations of the LESSOR shall be binding upon the LESSOR's interest in said property, but not upon other assets of the LESSOR, and no individual partner, agent, trustee, stockholder, officer, director, employee or beneficiary of the LESSOR shall be personally liable for performance of the LESSOR's obligations hereunder.

27. OTHER PROVISIONS

It is also understood and agreed that N/A

IN WITNESS WHEREOF, the said parties hereunto set their hands and seals this

APACHE, LLC

day of 2001  
CALLAHAN'S AUTO SERVICE

LESSEE

LESSOR

Jake Callahan

LESSEE

LESSOR

BROKER(S)

EPA0117

0097-0220

**SINGLE FAMILY DWELLING LEASE**  
(with tax escalator clause)

**FOR RESIDENTIAL PROPERTY CONSTRUCTED  
PRIOR TO 1978 TENANT(S) MUST ALSO SIGN A  
"TENANT LEAD LAW CERTIFICATION FORM"**

Tarlow, Breed, Hart,  
Murphy & Rodgers, P.C.  
21 Custom House St.  
Boston, MA 02110  
617-218-2000

Date: \_\_\_\_\_ 2001

In consideration of the mutual promises, obligations and agreements herein set forth, the parties hereto agree as follows:

1. PARTIES

Apache, LLC  
(Name) (Address) (Telephone No.)

hereinafter called "Landlord", hereby leases to

Clifford Boutwell, 280 Salem Street Woburn, MA  
(Name) (Address) (Telephone No.)

hereinafter called "Tenant", and Tenant hereby hires from Landlord, the Leased Premises described in Paragraph 2. The Leased Premises consist of the land and the buildings thereon now known as and numbered

2. LEASED PREMISES

The residential house located at 280 Salem Street, Woburn, MA as shown on  
(Street)  
Exhibit A, Massachusetts \_\_\_\_\_  
(City or Town) (Zip Code)

3. TERM

This Lease shall be for a term of \_\_\_\_\_ years, beginning on \_\_\_\_\_, 2001 and ending on \_\_\_\_\_, 2006.

4. RENT

Tenant agrees to pay rent to Landlord at the rate of One Hundred Dollars for the entire 5 yr term (\$ \_\_\_\_\_) per month on the \_\_\_\_\_ day of each and every month in advance so long as this Lease is in force and effect. All rent shall be paid to Landlord by check mailed to the address of Landlord set forth above, or as otherwise directed in writing by Landlord.

5. REAL ESTATE TAXES  
(Fill in Applicable fiscal tax periods)

If in any real estate fiscal tax year starting with the real estate fiscal tax year beginning July 1, 20, the real estate taxes on the Leased Premises (which specifically includes both the land and the building), are in excess of the amount of such taxes for the real estate fiscal tax year beginning July 1, 20, then Tenant agrees to pay to Landlord, as additional rent, when billed by Landlord, One Hundred per cent (100%) of such excess that may occur in each year of the Term of this Lease, apportioned for any fraction of a tax year in which the Term of this Lease begins or ends. In accordance with Massachusetts law, it is expressly understood and agreed that Tenant shall be obligated to pay only that proportion of such increased tax as the unit leased by him bears to the whole of the real estate so taxed [i.e., 100%], and that if Landlord obtains an abatement of the real estate tax levied on the whole of the real estate of which the unit leased by Tenant is a part [i.e., the Leased Premises], a proportionate share of such abatement, less reasonable attorney's fees, if any, shall be refunded to Tenant.

6. CLEANLINESS

Tenant shall keep the Leased Premises in a clean condition. Tenant shall be responsible for the proper storage and the final collection or ultimate disposal of all garbage and rubbish, all in accordance with the regular municipal collection system. Tenant shall not permit the Leased Premises to be overloaded, damaged, stripped or defaced, nor suffer any waste, and shall obtain the written consent of Landlord before erecting any sign on the Leased Premises. The toilets and pipes shall not be used for any purpose other than those for which they were constructed.

7. PETS

~~No dogs, birds, cats, or animals of any kind shall be kept on or used on the Leased Premises without Landlord's prior written consent obtained in each instance.~~

8. GROUNDS

Tenant shall be responsible for normal grounds maintenance during the Term of this lease. Without limiting the generality of the foregoing language, Tenant shall promptly remove snow and ice from the driveway, walks and steps of the Leased Premises, and shall keep the lawn and all shrubbery neatly trimmed, healthy and of good appearance.



9. INSURANCE

Tenant understands and agrees that it shall be his own obligation to insure his personal property.

10. COMPLIANCE WITH LAWS

Tenant shall not make or permit any use of the Leased Premises which will be unlawful, improper, or contrary to any applicable law or municipal ordinance (including without limitation all zoning, building or sanitary statutes, codes, rules, regulations, or ordinances), or which will make voidable or increase the cost of any insurance maintained on the Leased Premises by Landlord.

11. ADDITIONS OR ALTERATIONS

Tenant shall not make any additions or alterations to the Leased Premises without Landlord's prior written consent obtained in each instance. Any alterations or additions made by Tenant at his expense may be removed by Tenant at or prior to the termination of this Lease, provided that Tenant is not in default under this Lease, and provided further that Tenant repair any resulting injury to the Leased Premises and restore the Leased Premises to their former condition.

12. SUBLETTING, NUMBER OF OCCUPANTS

Tenant shall not assign or sublet any part or the whole of the Leased Premises, nor shall he permit the Leased Premises to be occupied for a period longer than a temporary visit by any one except the individuals specifically named in the first paragraph of this Lease, their spouses, and any children born to them during the Term of this Lease, or any extension or renewal thereof, without first obtaining on each occasion the consent in writing of Landlord. Notwithstanding any such consent, Tenant shall remain unconditionally and principally liable to Landlord for the payment of all rent and for the full performance of the covenants and conditions of this Lease.

13. UTILITIES

Tenant shall promptly pay all bills for water, sewer, fuel, heat, electricity, gas, telephone and other utilities furnished to the Leased Premises during the Term of this Lease, and shall keep the Leased Premises adequately heated during the normal heating season. Upon request of Landlord, Tenant shall promptly deliver adequate proof of the payment of utility bills to Landlord. Landlord and Tenant understand and acknowledge that the following utility equipment has been rented or purchased on credit by Landlord: None

and Tenant agrees to pay the sum of \$ 0 per month directly to \_\_\_\_\_ for use of such equipment during the Term of this Lease and if Tenant shall fail to pay such sums as set forth herein, then Landlord may pay such sums for the account of Tenant and Tenant shall reimburse Landlord therefor upon demand, as additional rent.

14. ENTRY

~~Tenant shall permit Landlord to enter the Leased Premises prior to the termination of this Lease to inspect the same, to make repairs thereon, to change anything mentioned in this Paragraph shall be construed to require Landlord to make any repair or to show the door to prospective tenants, purchasers or mortgagees. Landlord shall also be entitled to enter the Leased Premises if they appear to have been abandoned by Tenant or otherwise, as permitted by Law. Any person entitled to enter the Leased Premises in accordance with this Paragraph may do so through his duly-authorized representative. Wherever possible, Tenant shall be informed in advance of any proposed entry hereunder. ~~At any time within three (3) months after the expiration of the term of this Lease and before the end of any suitable part of the Lease term, Tenant shall be required to give notice to Landlord of the same and keep such notice posted with a sign of protestation.~~~~

~~15. KEYS AND LOCKS~~

~~Keys shall not be changed, altered or replaced nor shall new keys be added by Tenant without the written permission of Landlord. Any keys so permitted to be inserted shall become the property of Landlord and shall be removed by Tenant. Tenant shall promptly give a duplicate key to any such changed, altered, replaced or new lock to Landlord and upon termination of this Lease, Tenant shall deliver all keys to the Leased Premises to Landlord.~~

16. REPAIRS

Subject to applicable law, Tenant shall keep and maintain the Leased Premises and all equipment and fixtures thereon or used therewith repaired, whole and of the same kind, quality and description and in such good repair, order and condition as the same are at the beginning of the Term of this Lease or may be put in thereafter, reasonable and ordinary wear and tear and damage by fire and other unavoidable casualty only excepted. If Tenant fails within a reasonable time to make such repairs, or makes them improperly, then and in any such event or events, Landlord may (but shall not be obligated to) make such repairs and Tenant shall reimburse Landlord for the reasonable cost of such repairs in full, as additional rent, upon demand.

17. LOSS OR DAMAGE

Tenant shall indemnify Landlord against all liabilities, damages and other expenses, including reasonable attorneys' fees, which may be imposed upon, incurred by, or asserted against Landlord by reason of (a) any failure on the part of Tenant to perform or comply with any covenant required to be performed or complied with by Tenant under this Lease, or (b) any injury to person or loss of or damage to property sustained or occurring on the Leased Premises on account of or based upon the act, omission, fault, negligence or misconduct of any person whomsoever other than Landlord.

18. EMINENT DOMAIN

If the Leased Premises or any part thereof, shall be taken for any purpose by exercise of the power of eminent domain or condemnation or shall receive any direct or consequential damage for which Landlord or Tenant shall be entitled to compensation by reason of anything lawfully done in pursuance of any public authority, then this Lease shall terminate at the option of Landlord or Tenant; and such option may be exercised in case of any such taking, notwithstanding that the entire interest of Landlord may have been divested by such taking. If this Lease is not so terminated, then in case of any such taking of the Leased Premises rendering the same or any part thereof unfit for use and occupancy, a just and proportionate abatement of rent shall be made. Any termination of this Lease pursuant to this Paragraph shall be effective as of the date on which Tenant is required by the taking authority to vacate the Leased Premises or any part thereof, provided however that Landlord shall have the option to make such termination effective upon, or at any time following, the date on which said taking becomes legally effective.

19.  
FIRE,  
OTHER  
CASUALTY

Should a substantial portion of the Leased Premises be substantially damaged by fire or other casualty, Landlord may elect to terminate this Lease. When such fire, casualty, or taking renders the Leased Premises or any part thereof unfit for use and occupancy, a just and proportionate abatement of rent shall be made, and Tenant may elect to terminate this Lease if Landlord fails to give written notice within thirty (30) days after said fire or other casualty of his intention to restore Leased Premises, or if Landlord fails to restore the Leased Premises to a condition substantially suitable for use and occupancy within ninety (90) days after said fire or other casualty, provided however that nothing contained in this Paragraph shall be construed to require Landlord to make such restoration.

20.  
DEFAULT

If Tenant shall fail to comply with any lawful Term, condition, covenant, obligation, or agreement expressed herein or implied hereunder, or if a petition in bankruptcy has been filed by or against Tenant or if Tenant shall be adjudicated bankrupt or insolvent according to law or if any assignment of Tenant's property shall be made for the benefit of creditors, or if the Leased Premises appear to be abandoned, then, and in any of the said cases and notwithstanding any license or waiver of any prior breach of any of the said terms, conditions, covenants, obligations, or agreements, the Landlord without necessity or requirement of making any entry may (subject to the Tenant's rights under applicable law) terminate this Lease by:

1. a <sup>(30)</sup>thirty day written notice to Tenant to vacate the Leased Premises in case of any breach except only for non-payment of rent, or
2. a fourteen (14) day written notice to Tenant to vacate the Leased Premises upon the neglect or refusal of Tenant to pay the rent as herein provided.

Any termination under this section shall be without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of any of the said terms, conditions, covenants, obligations or agreements.

21.  
COVENANTS  
IN EVENT  
OF  
TERMINATION

Tenant covenants that in case of any termination of this Lease, by reason of the default of Tenant, then:

A. Tenant will forthwith pay to Landlord as damages hereunder a sum equal to the amount by which the rent and other payments called for hereunder for the remainder of the Term or any extension or renewal thereof exceed the fair rental value of said Leased Premises for the remainder of the Term or any extension or renewal thereof; and

B. Tenant covenants that he will furthermore indemnify Landlord from and against any loss and damage sustained by reason of any termination caused by the default of, or the breach by, Tenant. Landlord's damages hereunder shall include, but shall not be limited to, any loss of rents, accrued but unpaid prior to termination; reasonable broker's commission for the re-letting of the Leased Premises; advertising costs; the reasonable cost incurred in cleaning and repainting the Leased Premises in order to re-let the same and moving and storage charges incurred by Landlord in moving Tenant's belongings pursuant to eviction proceedings.

C. At the option of Landlord, however, Landlord's cause of action under this Section shall accrue when a new tenancy or lease Term first commences subsequent to a termination under this Lease, in which event Landlord's damages shall be limited to any and all damages sustained by him prior to said new tenancy or lease date.

Landlord shall also be entitled to any and all other remedies provided by law. All rights and remedies are to be cumulative and not exclusive.

22.  
SURRENDER

Upon the termination of this Lease, Tenant shall deliver up the Leased Premises in as good order and condition as the same were in at the commencement of the Term, reasonable and ordinary wear and tear and damage by fire and other unavoidable casualty only excepted. Neither the vacating of the Leased Premises by Tenant, nor the delivery of keys to Landlord shall be deemed a surrender or an acceptance of surrender of the Leased Premises, unless so stipulated in writing by Landlord. Landlord accepts that the current condition of the Premises on the execution of the forms, if any, attached hereto are incorporated herein by reference.

23.  
ATTACHED  
FORMS

24.  
NOTICES

Notice from one party to the other shall be deemed to have been properly given if mailed by registered or certified mail, postage prepaid, return receipt requested, to the other party (a) in the case of Landlord, at the address set forth in the first paragraph in this agreement or any other address of which Tenant has been notified, and (b) in the case of Tenant, at the Leased Premises, or if said notice is delivered or left in or on any part thereof provided that there is actual personal delivery to the other party or someone on his behalf received said notice. Notwithstanding the foregoing, notice by either party to the other shall be deemed adequate if given in any other manner provided or recognized by law. \*\* c/o Grace P. Morse,

25.  
LIABILITY

In the event that Landlord is a trustee or partner, no such trustee or partner nor any beneficiary nor any shareholder of said trust nor any partner of such partnership shall be personally liable to anyone under any term, condition, obligation or agreement expressed herein or implied hereunder or for any claim of damage or cause at law or in equity arising out of the occupancy of the Leased Premises, the use or maintenance of said building or its approaches and equipment.

26.  
DEFINITIONS

The words "Landlord" and "Tenant" as used herein shall include their respective heirs, legatees, devisees, executors, administrators, successors, personal representatives and assigns; and the words "he", "his", and "him", where applicable shall apply to Landlord or Tenant regardless of sex, number, corporate entity, trust or other body. If more than one party signs as Landlord or Tenant hereunder, the conditions and agreements herein of Landlord or Tenant shall be joint and several obligations of each such party.

\* this Lease is acceptable to Landlord.

27. WAIVER

the waiver of one breach of any term, condition, covenant, obligation, or agreement of this Lease shall not be construed to be a waiver of that or any other Term, condition, covenant, obligation, or agreement or of any subsequent breach thereof.

28. SEPARABILITY CLAUSE

If any provision of this Lease or portion of such provision or the application thereof to any person or circumstance is held invalid, the remainder of the Lease (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.

29. ADDITIONAL PROVISIONS

(a) Tenant shall have the right to terminate this Lease on thirty (30) days prior written notice to Landlord.

(b) This Lease will automatically terminate thirty (30) days after the death of the Tenant, or after the Tenant moves out of the Premises to a nursing home, assisted care facility or otherwise.

EXECUTED as an instrument under seal in duplicate on the day and date first written above, and Tenant as an individual states under penalty of perjury that he is at least eighteen (18) years of age.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Landlord

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Landlord

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Tenant

\_\_\_\_\_  
Witness

Tenant Clifford Boutwell, by his attorney, Grace P. Morse

TENANT: REMEMBER TO OBTAIN A SIGNED COPY OF THIS LEASE.

GUARANTEE: In consideration of the execution of the within Lease by Landlord at the request of the undersigned and of one dollar paid to the undersigned by Landlord, the undersigned hereby, jointly and severally, guarantee to Landlord, and the heirs, successors, and assigns of Landlord, the punctual performance by Tenant and the legal representatives, successors, and assigns of Tenant of all the terms, conditions, covenants, obligations and agreements in said Lease on Tenant's or their part to be performed or observed, demand and notice of default being hereby waived. The undersigned waive all surety-ship defenses and defenses in the nature thereof and assent to any and all extensions and postponements of the time of payment and all other indulgences and forbearances which may be granted from time to time to Tenant.

WITNESS the execution hereof under seal by the undersigned the day and year first written in said Lease.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## EXHIBIT C

### ENVIRONMENTAL DEFENSE AND INDEMNIFICATION AGREEMENT

This Environmental Defense and Indemnification Agreement ("Agreement") is made and entered into as of \_\_\_\_\_, 2001 by Apache, LLC, a Massachusetts limited liability company (the "Buyer") to and for the benefit of Clifford C. Boutwell (the "Seller"). This Agreement is effective as of the last date of signature hereof. This Agreement may be signed in counterpart.

WHEREAS, Seller is selling to Buyer that certain real property located at 278-280 Salem Street, Woburn, Middlesex County, Massachusetts, more particularly described in Exhibit A hereto (the "Property");

WHEREAS, petroleum products and other hazardous substances are located at the Property, including but not limited to in soil, groundwater, and in personal property located at the Property (collectively, the "Contamination"), and the Property is within the boundaries and is part of what is referred to as the "Wells G & H Superfund Site" (the "Site"), which is a highly publicized contaminated property subject to regulatory control and oversight by the United States Environmental Protection Agency (the "EPA") acting under the authority the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.

NOW, THEREFORE, for good and sufficient consideration, the receipt of which is hereby acknowledged, which consideration includes but is not limited to a reduction in the purchase price for the Property, the parties hereto agree as follows:

1. Defense and Indemnification. Buyer, on behalf of itself, its officers, directors, heirs, assigns, partners, employees, insurers, predecessors, successors, affiliates, agents and representatives, agree to defend, indemnify, protect, and hold harmless Seller, and its heirs, assigns, trustees, partners, insurers, predecessors, successors, affiliates, employees, insurers, agents and representatives, from any claims brought by governmental entities or third parties concerning the Contamination (whether for environmental investigation or clean-up, or for personal injury or real or personal property damage), actions, administrative proceedings, judgments, damages, punitive damages, penalties, fines, costs, liabilities, interest or losses, including reasonable attorneys' fees and expenses incurred in enforcing this Agreement or collecting any sums due hereunder, consultant fees, and expert fees, together with all other costs and expenses of any kind or nature that arise directly or indirectly from or in connection with the Contamination.

2. Seller's Right to Participate. If Seller is found to have any obligation to pay or share in any costs or damages, legal or equitable, to any governmental entity or third party, Seller shall have a right to participate in any negotiations or proceedings involving such claim. If Seller suffers or incurs any costs for which Buyer has indemnified Seller hereunder, Buyer shall pay to Seller the total of all such Costs suffered or incurred by Seller immediately upon demand therefor by Seller.

3. Buyer's Right to Contest. Buyer may contest or cause to be contested by appropriate action any action ordered to be conducted in connection with the Contamination; provided that such contest is made in good faith and shall not subject Seller to any expense or liability.

4. Release. Buyer on behalf of itself, its officers, directors, heirs, assigns, partners, trustees, employees, insurers, predecessors, successors, affiliates, agents and representatives hereby releases Seller and its heirs, assigns, trustees, partners, insurers, predecessors, successors, affiliates, employees, agents and representatives, from any and all claims, demands, obligations, causes of action and liability arising out of or related to the Contamination for which Buyer is indemnify Seller hereunder. Buyer agrees never to commence, aid in any way or prosecute against Seller or its heirs, assigns, trustees, partners, insurers, predecessors, successors, affiliates, employees, insurers, agents and

representatives, any action or other proceeding based upon any claims, demands, causes of action, obligations, damages or liabilities covered by this release.

5. Attorneys Fees. In the event of any actions, proceeding, controversy, claim or dispute concerning the interpretation or enforcement of this instrument of the rights granted herein or obligations created hereby, the prevailing party shall be entitled to recover from the other party the prevailing party's reasonably attorneys' fees, costs and expenses.

6. Miscellaneous. If any term of this Agreement or any application thereof shall be invalid, illegal or unenforceable, the remainder of this Agreement and any other application of such term shall not be affected thereby. No delay or omission in exercising any right hereunder shall operate as a waiver of such right or any other right. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by Buyer and Seller, and their respective successors and assigns. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date so indicated.

Dated: \_\_\_\_\_, 2001

By: \_\_\_\_\_  
Grace P. Morse, authorized by a validly  
executed Durable Power of Attorney  
for Clifford Boutwell

Dated: \_\_\_\_\_, 2001

By: \_\_\_\_\_, individually and as  
[Manager] of Apache, LLC



## QUITCLAIM DEED

CLIFFORD C. BOUTWELL, individually, and William E. Boutwell, as Executor of the Estate of Grace E. Boutwell (Middlesex Probate No. 00:3898EP, pursuant to the power of sale contained in the Will of Grace E. Boutwell, a copy of which is attached hereto, and GRACE P. MORSE, not individually, but as Executrix of the Estate of Grace E. Boutwell (Middlesex Probate No. 00:3898EP, pursuant to the power of sale contained in the Will of Grace E. Boutwell, a copy of which is attached hereto, for consideration paid of Six Hundred Thousand and 00/100 Dollars (\$600,000.00) grant to 280 Salem St., L.L.C., with a principal address at \_\_\_\_\_

*with Quitclaim Covenants*

### PARCEL I

The land in Woburn with buildings thereon beginning at a corner on the North side of Salem Street at land of Charles E. Quinn et al, the line runs N 5° 55' W to a stake a distance of three and 06/100 (3.06) feet, thence turning the line runs N 29° 36' 00' E two hundred and 36/100 (200.36) feet to a stone bound, thence in same course by land of aforesaid Quinn a distance of two hundred sixty eight and 19/100 (268.19) feet to the thread of the Aberjona River, thence following the thread of the Aberjona River in a general Southerly direction, three hundred thirty (330.00) feet more or less to the North side of a bridge on Salem Street, said point being on the North side of Salem Street, thence the line runs S 49° 00' W a distance of sixty-four and 70/100 (64.70) feet to a stone bound, thence on a curve bearing to the right with a radius 350.05' a distance of one hundred thirty-eight and 19/100 (138.19) feet to a stone bound, thence the, line runs S 71° 36" W a distance of one hundred fifty-six and 95/100 (156.95) feet to a stone bound thence on a curve bearing to the right with a radius of 755.61' a distance of twenty-seven and 30/100 (27.30) feet to a stake to point of beginning.

Containing 62,500 sq. ft. more or less. The last four courses described constitute the layout of the North side of Salem Street as layed out by the County Commission in 1920.

For title reference see deed of Clifford C. Boutwell and Grace E. Boutwell to Clifford C. Boutwell and Grace E. Boutwell, dated March 20, 1990 and recorded with Middlesex South Registry of Deeds in Book 20445, Page 072, Death Certificate of Grace E. Boutwell, recorded prior hereto and Middlesex Probate No. 00P3898EP.

### PARCEL II

that certain parcel of land with the buildings thereon, if any, situate in Woburn in the County of Middlesex and said Commonwealth, bounded and described as follows:

Westerly by land now or formerly of Charles E. Quinn et al, one hundred thirty-two and 60/100 feet;  
Northwesterly by said Quinn et al land, one hundred twenty-one and 05/100 feet; and  
Southeasterly by land now or formerly of Daniel J. Quinn, measuring on the upland, two hundred and 37/100 feet.

Said parcel is shown as lot B<sup>1</sup> on said plan, (Plan No. 3507<sup>B</sup>).

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 389, Page 197, with Certificate 58179.

The above described land is subject to a Taking by the Middlesex County Commissioners for relocation of Salem Street, as shown on said plan, see Filed Plan 683, Document 33795 and to a Taking by the City of Woburn for construction of sewer, Document 111000.

For title reference see Certificate of Title No. 187189, filed in the Land Registry District of Middlesex County in Registration Book 1066, Page 39, Death Certificate of Grace E. Boutwell, recorded prior hereto and Middlesex Probate No. 00P3898EP.

### **PARCEL III**

that certain parcel of land with the buildings thereon, if any, situate in Woburn in the County of Middlesex and said Commonwealth, bounded and described as follows:

Southwesterly by line of land marked City of Woburn (Sewer Location) as shown on plan hereinafter mentioned, five hundred twenty-three and 17/100 feet;  
Northwesterly by land now or formerly of John J. Riley Company, about five hundred and eighty-one feet;  
Northeasterly by the Abajona (sic) River;  
Southeasterly by land now or formerly of Daniel J. Quinn, measuring on the upland, about two hundred and fifty-three feet; and  
Southeasterly, again, one hundred twenty-one and 05/100 feet, and  
Northeasterly, one hundred thirty-five and 66/100 feet; by lot B<sup>1</sup> on said plan, ending at a point on Salem Street.

Said parcel is shown as lot 1 on said plan, (Plan no. 3507<sup>c</sup>).

All of said boundaries, except the river line, are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 612, Page 138, with Certificate 96488.

The above described land is subject to such flowage rights as may legally exist.

For title reference see Certificate of Title No. 187189, filed in the Land Registration Office for the Middlesex South Registry of Deeds in Registration Book 1066, Page 40, Certificate No. 187190, Death Certificate of Grace E. Boutwell, recorded prior hereto and Middlesex Probate No. 00P3898EP.

### **PARCEL IV**

that certain parcel of land with the buildings thereon, if any, situate in Woburn in the County of Middlesex and said Commonwealth, bounded and described as follows:

Southeasterly by the Northwesterly line of Salem Street, two hundred twenty-one and 99/100 feet;  
Southwesterly by land now or formerly of Hugh A. Quinn et al, four hundred forty-eight and 89/100 feet; and  
Northwesterly, eight and 62/100 feet, and  
Northeasterly, five hundred and 82/100 feet, by line of land marked City of Woburn (Sewer Location) as shown on plan hereinafter mentioned.

Said parcel is shown as lot 2 on said plan, (Plan No. 3507<sup>c</sup>).

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 612, Page 138, with Certificate 96488.

Together with the fee and soil of so much as Salem Street shown on said plan as was included by implication of law in bounding by Salem Street in its former location prior to its relocation by the Middlesex County Commissioners under Document 33795.

The above described land is subject to such flowage rights as may legally exist, see Order of Court, Document 338765.

For title reference see Certificate of Title No. 187189, filed in the Land Registration Office for the Middlesex South Registry of Deeds in Registration Book 1066, Page 41, Certificate No. 187191, Death Certificate of Grace E. Boutwell, recorded prior hereto and Middlesex Probate No. 00P3898EP.

WITNESS our hands and seals this 19 day of October, 2001.

[Signature]  
WILLIAM E. BOUTWELL, not  
individually, but as Executor of  
the Estate of Grace E. Boutwell

[Signature]  
CLIFFORD C. BOUTWELL, Individually and as  
Executor of the Estate of Grace E. Boutwell

[Signature]  
GRACE P. MORSE, not individually but as  
Executor of the Estate of Grace E. Boutwell

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

October 29, 2001

Then personally appeared the above-named CLIFFORD C. BOUTWELL, individually and as Executor of the Estate of Grace E. Boutwell, and GRACE P. MORSE, not individually but as Executrix of the Estate of Grace E. Boutwell and acknowledged the foregoing instrument to be their free act and deed, before me,

[Signature]  
Notary Public ROBERT OWEN  
My Commission Expires: 10/29/04

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

October 19, 2001

Then personally appeared before me the above-named William E. Boutwell, not individually, but as Executor of the Estate of Grace E. Boutwell, and acknowledged the foregoing instrument to be his free act and deed, before me,

[Signature]  
Notary Public ROBERT OWEN  
My Commission Expires: 10/29/04



COMMONWEALTH OF MASSACHUSETTS  
THE TRIAL COURT  
THE PROBATE AND FAMILY COURT DEPARTMENT  
PROBATE OF WILL AND CODICIL(S) WITH/WITHOUT SURETIES  
MIDDLESEX, SS DIVISION DOCKET NO. 00P3898EP

ESTATE OF Grace E. Boutwell  
LATE OF Woburn  
IN THE COUNTY OF MIDDLESEX

**NOTICE**

A petition has been presented in the above captioned matter praying that a certain Instrument purporting to be the last will and codicil(s) of said deceased may be proved And allowed and that William E. Boutwell of Ware State of New Hampshire and Grace P. Morse of Chelmsford in the county/state/commonwealth of Middlesex be appointed executor/executrix with/without giving surety on his/her/their bond (s).

If you desire to object to the allowance of said petition, you or your attorney must file a Written appearance in said Court at Cambridge on or before 10:00 a.m. in the forenoon on September 26, 2000

In addition you must file a written affidavit of objections to the petitions, stating the specific Facts and grounds upon which the objections is based, within (30) days after the return day (or such time as the court, on motion with notice to the petitioner, may allow) in accordance with Probate Rule 16.

WITNESS, Sheila E. McGovern, Esquire, First Justice of said Court at Cambridge, the twenty first day of August in the year of our Lord Two thousand           

LEE G. JOHNSON  REGISTER OF PROBATE

**ORDER OF NOTICE**

It is ordered that notice of said proceeding be given by delivering or by mailing by postpaid, A copy of the foregoing citation to all the persons interested fourteen            days/months At least before said return date, and by publishing a copy thereof once in the Daily Times & Chronicle, a newspaper published in Woburn, the publication to be seven            days at least before return day. It is further ordered that notice thereof be given by delivering or mailing by registered or certified mail a copy thereof to the Office of The Attorney General, Division of Public Charities, if interested, fourteen            days/months at least before said return day.

WITNESS, Sheila E. McGovern, Esquire, First Justice of said Court at Cambridge, the twenty first day of August in the year of our Lord Two Thousand           

**RETURN OF SERVICE**

I hereby certify under the penalties of perjury that I have served the forgoing citation by,

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

Notice is required to be given to all know heirs-at-law, legatees and devisees.  
Notice to the Attorney General, Division of Public Charities, is required when charities Are involved, pursuant to Uniform Practice XXXIV: Charitable Interests. (see reverse side)  
Notice is also required to e given to the Attorney General when there are **NO KNOWN HEIRS-AT-LAW.**

Commonwealth of Massachusetts

The Trial Court

Middlesex Division

Probate and Family Court Department

Docket No. 00P3898EP

In the Estate of Grace E. Boutwell

Information and Rights of Interested Parties (G.L. c.215 § 30A)

1. A petition has been presented to the Court by William E. Boutwell of and Grace P. Morse

REDACTED - PERSONAL PRIVACY

(Name of Petitioner)

REDACTED - PERSONAL PRIVACY

of (Street) (City/Town) (Zip)

to be appointed co-executory of the estate of Grace E. Boutwell

2. This information is being sent to you as a party who is believed to have a legal interest in this case in order to inform you of your rights.

3. The papers related to this case are on file at the Middlesex Probate and Family Court located at 208 Cambridge Street, Cambridge, MA (617) 494-4545

(Division)

(Street)

(City)

(Phone No.)

4. The petitioner may ask you to assent to his/her appointment or to actions taken by him/her after his/her appointment. Your assent allows the Court to act on a matter without further notice to you or a hearing. Before you assent, you should carefully read the information in this form, and you may want to seek the advice of a lawyer. After you assent, you cannot ask the Court to reconsider except for fraud or manifest error.

5. An individual or corporation (corporate fiduciary) appointed as an executor, administrator, guardian, conservator or trustee is often called a fiduciary because they act in a position of trust and are responsible for their actions in administering the estate. The fiduciary must accept the appointment and agree to perform the duties of the position by filing a bond. The bond must have sufficient sureties in an amount approved by a judge to provide guarantees that the fiduciary will discharge his/her duties under the law. An individual fiduciary can be exempt from providing sureties if the requirement is waived by the deceased person in his/her will. Corporate fiduciaries are exempt from giving sureties on their bond by statute. In addition, the heirs of the estate, and other interested persons, other than creditors, may assent to the bond being without sureties. No provision for waiving sureties on the bond is provided in a guardianship of the estate or conservatorship. Interested persons may request a judge to require sureties on the bond at any time. An action on the bond may be brought by an interested person, if a fiduciary has failed to perform the duties of the position.

6. A fiduciary is required, within three months of appointment, to file an inventory of the real and personal property which has come into the fiduciary's possession or knowledge. If no inventory is filed, an interested person may petition the Court to order the fiduciary to file an inventory.

(OVER)

COMMONWEALTH OF MASSACHUSETTS  
THE TRIAL COURT  
PROBATE AND FAMILY COURT DEPARTMENT

MIDDLESEX DIVISION.

DOCKET NO. 12 P 3898 Et

TEMPORARY DECREE OF EXECUTOR/EXECUTRIX

At the Probate Court held at Cambridge in and for said County of Middlesex, on the ninth day of August in the year of our Lord, 2001

On the motion of William E. Bortwell of Weare New Hampshire and Grace P. Morse of Chelmsford in the County of Middlesex representing that the instrument herewith presented purporting to be the Last Will and Testament and ~~Codicil(s)~~ of Grace E. Bortwell

late of Woburn in the county of Middlesex, deceased; and praying that William E. Bortwell & Grace P. Morse be appointed temporary execut ~~ors~~; ~~temporary administrat~~ with the Will annexed with the powers set forth in Massachusetts General Laws, Chapter 192, section 13-16, first giving bond ~~with sufficient~~ / without sureties. And it appearing that all persons interested having assent and/or been notified. The Court finds that said petitioner ~~is~~ / are competent and suitable person to be appointed to said trust.

IT IS DECREED that said petitioner(s) William E. Bortwell and Grace P. Morse be appointed temporary execut ~~ors~~; ~~temporary administrat~~ with the ~~Will~~ annexed thereof, first giving bond ~~with sufficient~~ / without sureties for the due performance of said trust with the powers set forth in Massachusetts General Laws, Chapter 192, section 13-16. the authority of the temporary execut ~~ors~~; ~~temporary administrat~~





**SINGLE FAMILY DWELLING LEASE**  
(with tax escalator clause)

**FOR RESIDENTIAL PROPERTY CONSTRUCTED  
PRIOR TO 1978 TENANT(S) MUST ALSO SIGN A  
"TENANT LEAD LAW CERTIFICATION FORM"**

From the Office of:

Tarlow, Breed, Hart,  
Murphy & Rodgers, P.C.  
21 Custom House St.  
Boston, MA 02110  
617-218-2000

Date: October 19, 2001

In consideration of the mutual promises, obligations and agreements herein set forth, the parties hereto agree as follows:

1. **PARTIES** 280 Salem St., L.L.C.  
(Name) (Address) (Telephone No.)

hereinafter called "Landlord", hereby leases to

Clifford Boutwell, 280 Salem Street Woburn, MA  
(Name) (Address) (Telephone No.)

hereinafter called "Tenant", and Tenant hereby hires from Landlord, the Leased Premises described in Paragraph 2. The

2. **LEASED PREMISES** Leased Premises consist of the land and the buildings thereon now known as and numbered

The residential house located at 280 Salem Street, Woburn, MA as shown on  
(Street)  
Exhibit A, Massachusetts \_\_\_\_\_  
(City or Town) (Zip Code)

3. **TERM** This Lease shall be for a term of \_\_\_\_\_ years, beginning on October 19, 2001 and ending on October 19, 2006

4. **RENT** Tenant agrees to pay rent to Landlord at the rate of One Hundred Dollars for the entire 5 yr term (S \_\_\_\_\_) per month on the \_\_\_\_\_ day of each and every month in advance so long as this Lease is in force and effect. All rent shall be paid to Landlord by check mailed to the address of Landlord set forth above, or as otherwise directed in writing by Landlord.

5. **REAL ESTATE TAXES** (Fill in Applicable fiscal tax periods) If in any real estate fiscal tax year starting with the real estate fiscal tax year beginning July 1, 20, the real estate taxes on the Leased Premises (which specifically includes both the land and the building), are in excess of the amount of such taxes for the real estate fiscal tax year beginning July 1, 20, then Tenant agrees to pay to Landlord, as additional rent, when billed by Landlord, One Hundred per cent (100%) of such excess that may occur in each year of the Term of this Lease, apportioned for any fraction of a tax year in which the Term of this Lease begins or ends. In accordance with Massachusetts law it is expressly understood and agreed that Tenant shall be obligated to pay only that proportion of such increase in tax as the unit leased by him bears to the whole of the real estate so taxed [i.e., 100%], and that if Landlord obtains an abatement of the real estate tax levied on the whole of the real estate of which the unit leased by Tenant is a part [i.e., the Leased Premises], a proportionate share of such abatement, less reasonable attorney's fees, if any, shall be refunded to Tenant.

6. **CLEANLINESS** Tenant shall keep the Leased Premises in a clean condition. Tenant shall be responsible for the proper storage and the final collection or ultimate disposal of all garbage and rubbish, all in accordance with the regular municipal collection system. Tenant shall not permit the Leased Premises to be overloaded, damaged, stripped or defaced, nor suffer any waste, and shall obtain the written consent of Landlord before erecting any sign on the Leased Premises. The toilets and pipes shall not be used for any purpose other than those for which they were constructed.

7. **PETS** ~~No dogs, cats, birds, or other animals are permitted on the premises without the prior written consent of the Landlord, which consent shall be obtained in each instance.~~

8. **GROUNDS** Tenant shall be responsible for normal grounds maintenance during the Term of this lease. Without limiting the generality of the foregoing language, Tenant shall promptly remove snow and ice from the driveway, walks and steps of the Leased Premises, and shall keep the lawn and all shrubbery neatly trimmed, healthy and of good appearance.



9. INSURANCE

Tenant understands and agrees that it shall be his own obligation to insure his personal property.

10. COMPLIANCE WITH LAWS

Tenant shall not make or permit any use of the Leased Premises which will be unlawful, improper, or contrary to any applicable law or municipal ordinance (including without limitation all zoning, building or sanitary statutes, codes, rules, regulations, or ordinances), or which will make voidable or increase the cost of any insurance maintained on the Leased Premises by Landlord.

11. ADDITIONS OR ALTERATIONS

Tenant shall not make any additions or alterations to the Leased Premises without Landlord's prior written consent obtained in each instance. Any alterations or additions made by Tenant at his expense may be removed by Tenant at or prior to the termination of this Lease, provided that Tenant is not in default under this Lease, and provided further that Tenant repair any resulting injury to the Leased Premises and restore the Leased Premises to their former condition.

12. SUBLETTING, NUMBER OF OCCUPANTS

Tenant shall not assign or sublet any part or the whole of the Leased Premises, nor shall he permit the Leased Premises to be occupied for a period longer than a temporary visit by any one except the individuals specifically named in the first paragraph of this Lease, their spouses, and any children born to them during the Term of this Lease, or any extension or renewal thereof, without first obtaining on each occasion the consent in writing of Landlord. Notwithstanding any such consent, Tenant shall remain unconditionally and principally liable to Landlord for the payment of all rent and for the full performance of the covenants and conditions of this Lease.

13. UTILITIES

Tenant shall promptly pay all bills for water, sewer, fuel, heat, electricity, gas, telephone and other utilities furnished to the Leased Premises during the Term of this Lease, and shall keep the Leased Premises adequately heated during the normal heating season. Upon request of Landlord, Tenant shall promptly deliver adequate proof of the payment of utility bills to Landlord. Landlord and Tenant understand and acknowledge that the following utility equipment has been rented or purchased on credit by Landlord: None

and Tenant agrees to pay the sum of \$ 0 per month directly to \_\_\_\_\_ for use of such equipment during the Term of this Lease and if Tenant shall fail to pay such sums as set forth herein, then Landlord may pay such sums for the account of Tenant and Tenant shall reimburse Landlord therefor upon demand, as additional rent.

14. ENTRY

~~Tenant shall permit Landlord to enter the Leased Premises prior to the termination of this Lease to inspect the same, to make repairs, alterations (of the kind mentioned in this Paragraph) shall be considered to require Landlord to make any such repairs or to show the cause to prospective tenants, purchasers or mortgagees. Landlord shall also be entitled to enter the Leased Premises if they appear to have been abandoned by Tenant or otherwise, as permitted by Law. Any person entitled to enter the Leased Premises in accordance with this Paragraph may do so through his duly-authorized representative. Wherever possible, Tenant shall be informed in advance of any proposed entry hereunder. At any time within the 60 days before the expiration of the Term of this Lease, Landlord may, with no any liability, enter the Leased Premises to look for tenants or to show the same and keep such notice for a period of 90 days.~~

~~15. KEYS AND LOCKS~~

~~Keys shall not be changed, altered or replaced nor shall new keys be added by Tenant without the written permission of Landlord. Any keys or permits to be issued shall become the property of Landlord and shall not be removed by Tenant. Tenant shall promptly give a duplicate key to any such change, altered, replaced or new lock to Landlord, and upon termination of this lease Tenant shall deliver all keys to the Leased Premises to Landlord.~~

16. REPAIRS

Subject to applicable law, Tenant shall keep and maintain the Leased Premises and all equipment and fixtures thereon or used therewith repaired, whole and of the same kind, quality and description and in such good repair, order and condition as the same are at the beginning of the Term of this Lease or may be put in thereafter, reasonable and ordinary wear and tear and damage by fire and other unavoidable casualty only excepted. If Tenant fails within a reasonable time to make such repairs, or makes them improperly, then and in any such event or events, Landlord may (but shall not be obligated to) make such repairs and Tenant shall reimburse Landlord for the reasonable cost of such repairs in full, as additional rent, upon demand.

17. LOSS OR DAMAGE

Tenant shall indemnify Landlord against all liabilities, damages and other expenses, including reasonable attorneys' fees, which may be imposed upon, incurred by, or asserted against Landlord by reason of (a) any failure on the part of Tenant to perform or comply with any covenant required to be performed or complied with by Tenant under this Lease, or (b) any injury to person or loss of or damage to property sustained or occurring on the Leased Premises on account of or based upon the act, omission, fault, negligence or misconduct of any person whomsoever other than Landlord.

18. EMINENT DOMAIN

If the Leased Premises or any part thereof, shall be taken for any purpose by exercise of the power of eminent domain or condemnation or shall receive any direct or consequential damage for which Landlord or Tenant shall be entitled to compensation by reason of anything lawfully done in pursuance of any public authority, then this Lease shall terminate at the option of Landlord or Tenant; and such option may be exercised in case of any such taking, notwithstanding that the entire interest of Landlord may have been divested by such taking. If this Lease is not so terminated, then in case of any such taking of the Leased Premises rendering the same or any part thereof unfit for use and occupancy, a just and proportionate abatement of rent shall be made. Any termination of this Lease pursuant to this Paragraph shall be effective as of the date on which Tenant is required by the taking authority to vacate the Leased Premises or any part thereof, provided however that Landlord shall have the option to make such termination effective upon, or at any time following, the date on which said taking becomes legally effective.

19.  
FIRE,  
OTHER  
CASUALTY

Should a substantial portion of the Leased Premises be substantially damaged by fire or other casualty, Landlord may elect to terminate this Lease. When such fire, casualty, or taking renders the Leased Premises or any part thereof unfit for use and occupancy, a just and proportionate abatement of rent shall be made, and Tenant may elect to terminate this Lease if Landlord fails to give written notice within thirty (30) days after said fire or other casualty of his intention to restore Leased Premises, or if Landlord fails to restore the Leased Premises to a condition substantially suitable for use and occupancy within ninety (90) days after said fire or other casualty, provided however that nothing contained in this Paragraph shall be construed to require Landlord to make such restoration.

20.  
DEFAULT

If Tenant shall fail to comply with any lawful Term, condition, covenant, obligation, or agreement expressed herein or implied hereunder, or if a petition in bankruptcy has been filed by or against Tenant or if Tenant shall be adjudicated bankrupt or insolvent according to law or if any assignment of Tenant's property shall be made for the benefit of creditors, or if the Leased Premises appear to be abandoned, then, and in any of the said cases and notwithstanding any license or waiver of any prior breach of any of the said terms, conditions, covenants, obligations, or agreements, the Landlord without necessity or requirement of making any entry may (subject to the Tenant's rights under applicable law) terminate this Lease by:

- 1. a thirty (30) day written notice to Tenant to vacate the Leased Premises in case of any breach except only for non-payment of rent, or
- 2. a fourteen (14) day written notice to Tenant to vacate the Leased Premises upon the neglect or refusal of Tenant to pay the rent as herein provided.

Any termination under this section shall be without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of any of the said terms, conditions, covenants, obligations or agreements.

21.  
COVENANTS  
IN EVENT  
OF  
TERMINATION

Tenant covenants that in case of any termination of this Lease, by reason of the default of Tenant, then:

- A. Tenant will forthwith pay to Landlord as damages hereunder a sum equal to the amount by which the rent and other payments called for hereunder for the remainder of the Term or any extension or renewal thereof exceed the fair rental value of said Leased Premises for the remainder of the Term or any extension or renewal thereof; and
- B. Tenant covenants that he will furthermore indemnify Landlord from and against any loss and damage sustained by reason of any termination caused by the default of, or the breach by, Tenant. Landlord's damages hereunder shall include, but shall not be limited to, any loss of rents, accrued but unpaid prior to termination; reasonable broker's commission for the re-letting of the Leased Premises; advertising costs; the reasonable cost incurred in cleaning and repainting the Leased Premises in order to re-let the same and moving and storage charges incurred by Landlord in moving Tenant's belongings pursuant to eviction proceedings.
- C. At the option of Landlord, however, Landlord's cause of action under this Section shall accrue when a new tenancy or lease Term first commences subsequent to a termination under this Lease, in which event Landlord's damages shall be limited to any and all damages sustained by him prior to said new tenancy or lease date.

Landlord shall also be entitled to any and all other remedies provided by law. All rights and remedies are to be cumulative and not exclusive.

22.  
SURRENDER

Upon the termination of this Lease, Tenant shall deliver up the Leased Premises in as good order and condition as the same were in at the commencement of the Term, reasonable and ordinary wear and tear and damage by fire and other unavoidable casualty only excepted. Neither the vacating of the Leased Premises by Tenant, nor the delivery of keys to Landlord shall be deemed a surrender or an acceptance of surrender of the Leased Premises, unless so stipulated in writing by Landlord. Landlord accepts that the current condition of the Premises on the execution of the forms, if any, attached hereto are incorporated herein by reference.

23.  
ATTACHED  
FORMS

24.  
NOTICES

Notice from one party to the other shall be deemed to have been properly given if mailed by registered or certified mail, postage prepaid, return receipt requested, to the other party (a) in the case of Landlord, at the address set forth in the first paragraph in this agreement or any other address of which Tenant has been notified, and (b) in the case of Tenant, at the Leased Premises, or if said notice is delivered or left in, or on any part thereof, provided that there is actual or constructive residence in the premises and party or someone on his behalf received said notice. Notwithstanding the foregoing, notice by either party to the other shall be deemed adequate if given in any other manner provided or recognized by law \*\* c/o Grace P. Morse,

25.  
LIABILITY

REDACTED - PERSONAL PRIVACY  
In the event that Landlord is a trustee or partner, no such trustee or partner nor any beneficiary nor any shareholder of said trust nor any partner of such partnership shall be personally liable to anyone under any term, condition, obligation or agreement expressed herein or implied hereunder or for any claim of damage or cause at law or in equity arising out of the occupancy of the Leased Premises, the use or maintenance of said building or its approaches and equipment.

26.  
DEFINITIONS

The words "Landlord" and "Tenant" as used herein shall include their respective heirs, legatees, devisees, executors, administrators, successors, personal representatives and assigns; and the words "he", "his", and "him", where applicable shall apply to Landlord or Tenant regardless of sex, number, corporate entity, trust or other body. If more than one party signs as Landlord or Tenant hereunder, the conditions and agreements herein of Landlord or Tenant shall be joint and several obligations of each such party.

\* this Lease is acceptable to Landlord.

27. WAIVER

The waiver of one breach of any term, condition, covenant, obligation, or agreement of this Lease shall not be considered to be a waiver of that or any other Term, condition, covenant, obligation, or agreement or of any subsequent breach thereof.

28. SEPARABILITY CLAUSE

If any provision of this Lease or portion of such provision or the application thereof to any person or circumstance is held invalid, the remainder of the Lease (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.

29. ADDITIONAL PROVISIONS

(a) Tenant shall have the right to terminate this Lease on thirty (30) days prior written notice to Landlord.

~~(b) This Lease will automatically terminate thirty (30) days after the death of the Tenant, or after the Tenant moves out of the Premises to a nursing home, assisted care facility or otherwise.~~

EXECUTED as an instrument under seal in duplicate on the day and date first written above, and Tenant as an individual states under penalty of perjury that he is at least eighteen (18) years of age.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Landlord 280 Salem St., L.L.C.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Landlord

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Tenant

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Tenant Clifford Boutwell, by his attorney, Grace P. Morse

TENANT: REMEMBER TO OBTAIN A SIGNED COPY OF THIS LEASE.

GUARANTEE: In consideration of the execution of the within Lease by Landlord at the request of the undersigned and of one dollar paid to the undersigned by Landlord, the undersigned hereby, jointly and severally, guarantee to Landlord, and the heirs, successors, and assigns of Landlord, the punctual performance by Tenant and the legal representatives, successors, and assigns of Tenant of all the terms, conditions, covenants, obligations and agreements in said Lease on Tenant's or their part to be performed or observed, demand and notice of default being hereby waived. The undersigned waive all surety-ship defenses and defenses in the nature thereof and assent to any and all extensions and postponements of the time of payment and all other indulgences and forbearances which may be granted from time to time to Tenant.

WITNESS the execution hereof under seal by the undersigned the day and year first written in said Lease.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## First American Title Insurance Company

One Financial Center, 15th Floor  
 Boston, MA 02111  
 888-505-8558 \* 617-345-5444

Escrow Settlement Statement      Escrow Number:      30977

<b>Seller:</b>	<b>Buyer:</b>	<b>Property Location:</b>
Clifford C. Boutwell, et al	280 Salem St., LLC	278-280 Salem Street Woburn, Massachusetts

**Settlement Date:**

<b>Seller:</b>		<b>Description</b>	<b>Buyer:</b>	
<u>Debits</u>	<u>Credits</u>		<u>Debits</u>	<u>Credits</u>
	\$ 600,000.00	Purchase Price	\$ 600,000.00	
\$ 101,000.00		Earnest Money		\$ 101,000.00
	\$ 1,873.14	Real Estate Tax: 2nd 1/4 Prorations	\$ 1,873.14	
		Recording Fees	\$ 200.00	
\$ 9,319.53		Sovereign Bank Payoff # 5024010001		
\$ 2,736.00		Transfer Tax: \$4.56 per \$1,000		
		<u>First American Title Insurance Company</u>		
		Premium: \$600,000 Owner's Policy	\$ 1,200.00	
		Preliminary Search/Exam	\$ 670.00	
		Pre-Record Rundown	\$ 150.00	
		Overnight/Courier Expenses	\$ 80.00	
\$ 250.00		Escrow Service Fee	\$ 250.00	
		Commercial Municipal Lien Certs	\$ 225.00	
\$ 113,305.53	\$ 601,873.14	<b>TOTALS</b>	\$ 604,648.14	\$ 101,000.00
		Net Due from Buyer		\$ 503,648.14
\$ 488,567.61		Net Due to Seller		
\$ 601,873.14	\$ 601,873.14	<b>TOTALS</b>	\$ 604,648.14	\$ 604,648.14

We have read and hereby approve the same:

*[Handwritten Signature]*  
 Buyer

*[Handwritten Signature]*  
 Seller **GRACE P. MOUSE 1**  
 ATTORNEY FOR CLIFFORD  
 C. BOUTWELL AND  
 EXECUTOR OF THE  
 ESTATE OF GRACE  
 BOUTWELL



## ENVIRONMENTAL DEFENSE AND INDEMNIFICATION AGREEMENT

This Environmental Defense and Indemnification Agreement ("Agreement") is made and entered into as of October 19, 2001 by 280 Salem St., L.L.C., a Massachusetts limited liability company (the "Buyer") to and for the benefit of Clifford C. Boutwell (the "Seller"). This Agreement is effective as of the last date of signature hereof. This Agreement may be signed in counterpart.

*AND THE ESTATE OF CLIFFORD C. BOUTWELL*

WHEREAS, Seller is selling to Buyer that certain real property located at 278-280 Salem Street, Woburn, Middlesex County, Massachusetts, more particularly described in Exhibit A hereto (the "Property");

WHEREAS, petroleum products and other hazardous substances are located at the Property, including but not limited to in soil, groundwater, and in personal property located at the Property (collectively, the "Contamination"), and the Property is within the boundaries and is part of what is referred to as the "Wells G & H Superfund Site" (the "Site"), which is a highly publicized contaminated property subject to regulatory control and oversight by the United States Environmental Protection Agency (the "EPA") acting under the authority the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.

NOW, THEREFORE, for good and sufficient consideration, the receipt of which is hereby acknowledged, which consideration includes but is not limited to a reduction in the purchase price for the Property, the parties hereto agree as follows:

1. Defense and Indemnification. Buyer, on behalf of itself, its officers, directors, heirs, assigns, partners, employees, insurers, predecessors, successors, affiliates, agents and representatives, agree to defend, indemnify, protect, and hold harmless Seller, and its heirs, assigns, trustees, partners, insurers, predecessors, successors, affiliates, employees, insurers, agents and representatives, from any claims brought by governmental entities or third parties concerning the Contamination (whether for environmental investigation or clean-up, or for personal injury or real or personal property damage), actions, administrative proceedings, judgments, damages, punitive damages, penalties, fines, costs, liabilities, interest or losses, including reasonable attorneys' fees and expenses incurred in enforcing this Agreement or collecting any sums due hereunder, consultant fees, and expert fees, together with all other costs and expenses of any kind or nature that arise directly or indirectly from or in connection with the Contamination.

2. Seller's Right to Participate. If Seller is found to have any obligation to pay or share in any costs or damages, legal or equitable, to any governmental entity or third party, Seller shall have a right to participate in any negotiations or proceedings involving such claim. If Seller suffers or incurs any costs for which Buyer has indemnified Seller hereunder, Buyer shall pay to Seller the total of all such Costs suffered or incurred by Seller immediately upon demand therefor by Seller.

3. Buyer's Right to Contest. Buyer may contest or cause to be contested by appropriate action any action ordered to be conducted in connection with the Contamination; provided that such contest is made in good faith and shall not subject Seller to any expense or liability.

4. Release. Buyer on behalf of itself, its officers, directors, heirs, assigns, partners, trustees, employees, insurers, predecessors, successors, affiliates, agents and representatives hereby releases Seller and its heirs, assigns, trustees, partners, insurers, predecessors, successors, affiliates, employees, agents and representatives, from any and all claims, demands, obligations, causes of action and liability arising out of or related to the Contamination for which Buyer is indemnify Seller hereunder. Buyer agrees never to commence, aid in any way or prosecute against Seller or its heirs, assigns, trustees, partners, insurers, predecessors, successors, affiliates, employees, insurers, agents and

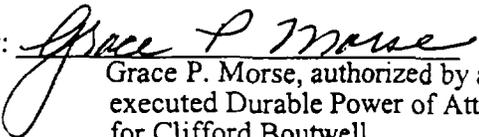
representatives, any action or other proceeding based upon any claims, demands, causes of action, obligations, damages or liabilities covered by this release.

5. Attorneys Fees. In the event of any actions, proceeding, controversy, claim or dispute concerning the interpretation or enforcement of this instrument of the rights granted herein or obligations created hereby, the prevailing party shall be entitled to recover from the other party the prevailing party's reasonably attorneys' fees, costs and expenses.

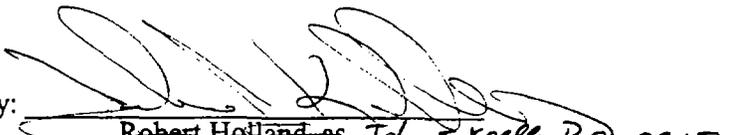
6. Miscellaneous. If any term of this Agreement or any application thereof shall be invalid, illegal or unenforceable, the remainder of this Agreement and any other application of such term shall not be affected thereby. No delay or omission in exercising any right hereunder shall operate as a waiver of such right or any other right. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by Buyer and Seller, and their respective successors and assigns. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date so indicated.

Dated: October 19, 2001

By:   
Grace P. Morse, authorized by a validly  
executed Durable Power of Attorney  
for Clifford Boutwell

Dated: October 19, 2001

By:   
~~Robert Holland, as~~ *John S. Kelly, President*  
Manager of 280 Salem St., L.L.C. *Y.H. Zick*



**AFFIDAVIT**

M.G.L. c. 65C § 14(a)

RE: **Estate of Grace E. Boutwell (Decedent)**  
Late of **Woburn, Massachusetts**  
Date of Death: **March 20, 2000**

We, **William E. Boutwell and Grace P. Morse**, after first being duly sworn, do depose and say that:

1. We are duly appointed and qualified **Co-Executors** of the Estate of the decedent filed with the Middlesex County Probate Court Docket No. **00P3898EP**.

2. At the time of her death, the Decedent owned an interest in real estate situated at **280 Salem Street, Woburn, Middlesex County, Massachusetts**, as more particularly described in certain deeds as further described by **deed dated March 20, 1990 and recorded at Middlesex South District Registry of Deeds in book 20445, Page 72 and Certificate of Title Numbers: 187189, 187190, and 187191 registered in Middlesex South District for the Land Court in Book 1066, Page 39, 40 and 41.**

3. The gross estate of the decedent does not necessitate a federal estate tax filing.

4. This affidavit is given pursuant to and in accordance with the provisions of Massachusetts General Laws Chapter 65C, Section 14(a).

Executed under the pains and penalties of perjury this 9<sup>th</sup> day of October, 2001.

Grace P. Morse  
GRACE P. MORSE, CO-EXECUTOR

[Signature]  
WILLIAM E. BOUTWELL, CO-EXECUTOR

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss. October 9<sup>th</sup>, 2001

Then personally appeared the above-named **GRACE P. MORSE, CO-EXECUTOR** and made oath that the foregoing statements are true and acknowledged the foregoing to be **her** free act and deed, before me,

Joseph M. Mitchell  
Notary Public  
My Commission Expires: 6/12/03





TARLOW BREED  
HART MURPHY & RODGERS, P.C.

*Counsellors at Law*

**Robert Orsi**  
Direct Dial: (617) 218-2017  
e-mail: rorsi@tbhmr.com

November 6, 2001

**Ms. Grace P. Morse**  
REDACTED - PERSONAL PRIVACY

Dear Grace:

Enclosed please find your closing binder for the above transaction. Such a thin binder for so much agitation! Will Bill want his own copy?

I also enclose your original power of attorney and your mother's original trust documents. If you have Mary Beth Mawn complete the paperwork, she will need the trust documents.

Please keep in touch. Call if there is anything else you need.

Very truly yours,

Robert Orsi

RO/sam  
Enclosures

0097-0249

EPA0146

ACCEPTANCE OF TRUSTEE

WHEREAS, GRACE E. BOUTWELL, a Trustee of the GRACE E. BOUTWELL REVOCABLE TRUST OF JANUARY 26, 1990, as amended, died on March 20, 2000, I, ROBERT C. BOUTWELL, hereby accept appointment as successor Trustee of said Indenture of Trust.

WITNESS my hand and seal this 9<sup>th</sup> day of October, 2001.

Robert C. Boutwell (Robert C. Boutwell)  
ROBERT C. BOUTWELL

COMMONWEALTH OF MASSACHUSETTS  
COUNTY OF Suffolk

Then personally appeared before me the above-named ROBERT C. BOUTWELL and ~~acknowledged~~ acknowledged the foregoing to be his free act and deed this 9<sup>th</sup> day of October, 2001.

[Signature]  
Notary Public  
My Commission Expires: 1-18-2002

## First American Title Insurance Company

One Financial Center, 15th Floor  
 Boston, MA 02111  
 888-505-8558 \* 617-345-5444

Escrow Settlement Statement      Escrow Number:      30977

<b>Seller:</b>	<b>Buyer:</b>	<b>Property Location:</b>
Clifford C. Boutwell, et al	280 Salem St., LLC	278-280 Salem Street Woburn, Massachusetts

**Settlement Date:**

<b>Seller:</b>		<b>Description</b>	<b>Buyer:</b>	
Debits	Credits		Debits	Credits
	\$ 600,000.00	Purchase Price	\$ 600,000.00	
\$ 101,000.00		Earnest Money		\$ 101,000.00
	\$ 1,873.14	Real Estate Tax: 2nd 1/4 Prorations	\$ 1,873.14	
		Recording Fees	\$ 200.00	
\$ 9,319.53		Sovereign Bank Payoff # 5024010001		
\$ 2,736.00		Transfer Tax: \$4.56 per \$1,000		
		<u>First American Title Insurance Company</u>		
		Premium: \$600,000 Owner's Policy	\$ 1,200.00	
		Preliminary Search/Exam	\$ 670.00	
		Pre-Record Rundown	\$ 150.00	
		Overnight/Courier Expenses	\$ 80.00	
\$ 250.00		Escrow Service Fee	\$ 250.00	
		Commercial Municipal Lien Certs	\$ 225.00	
\$ 113,305.53	\$ 601,873.14	<b>TOTALS</b>	\$ 604,648.14	\$ 101,000.00
		Net Due from Buyer		\$ 503,648.14
\$ 488,567.61		Net Due to Seller		
\$ 601,873.14	\$ 601,873.14	<b>TOTALS</b>	\$ 604,648.14	\$ 604,648.14

We have read and hereby approve the same:

Buyer

Seller **GARRETT P. MORSE**

AS ATTORNEY FOR  
 CLIFFORD C. BOUTWELL  
 AND EXECUTOR OF  
 THE ESTATE OF  
 GARRETT E. BOUTWELL

**RELEASE OF  
MORTGAGE  
INDIVIDUAL**

~~BK 344356073~~

4

999

18/01/01

NO.

DATE

RETURN DOCUMENT TO:

FLEET BANK

C/O SOVEREIGN BANK

(Name)

PO BOX 12646

(Address)

READING, PA 19611

ATTN: SAT. DEPT.

027010001

0/22/01 OCT 01 C81

Do Not Write In This Space  
(FOR RECORDER USE ONLY)

KNOW ALL MEN BY THESE PRESENTS, that the undersigned STERLING BANK NKA FLEET NATIONAL BANK County of BERKS in the Commonwealth of Pennsylvania for and in consideration of \$60,000.00 DOLLARS in hand paid, and other good and valuable considerations, the receipt whereof is hereby confessed, does hereby REMISE, CONVEY, RELEASE AND QUIT CLAIM unto CLIFFORD C BOUTWELL & GRACE E BOUTWELL of County of MIDDLESEX the State of MASSACHUSETTS all the right, title interest, claim or demand whatsoever they may have acquired in, through or by a certain mortgage deed bearing date the 20TH day of AUGUST, 1993 and recorded in the Recorder's Office of the County of MIDDLESEX in the State of MASSACHUSETTS, in Book 23582 of mortgages, Page 381 as Document Number to the premises therein described as follows, to wit:

280 SALEM STREET, WOBURN, MIDDLESEX COUNTY, MA 01801

(If additional space is needed to complete legal description, attach separate 8 1/2" x 11")

EPA0149

FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL BE FILED WITH THE RECORDER IN WHOSE OFFICE THE MORTGAGE OF DEED OF TRUST WAS FILED

Dated this 23RD day of OCTOBER, A.D. 2001.

Susan Ray *(Seal)*  
SUSAN RAY, Satisfaction Representative

Deborah Previtera *(Seal)*  
DEBORAH PREVITERA, Asst. Secretary, FLEET BANK

STATE OF PENNSYLVANIA }  
COUNTY OF BERKS } SS:

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT DEBORAH PREVITERA and SUSAN RAY personally known to me to be the same person(s) whose name(s) were subscribed to the foregoing instrument appeared before me this day in person, and acknowledges that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes set forth.

Given under my hand and seal, this 23RD day of OCTOBER, 2001.

Heather Birch  
(Notary Public)

(Seal)

NOTARIAL SEAL  
HEATHER BIRCH, NOTARY PUBLIC  
READING, BERKS COUNTY  
MY COMMISSION EXPIRES MAY 23, 2005

My commission expires \_\_\_\_\_, 20\_\_.

**INSTRUMENT PREPARED BY:**

NAME FLEET BANK

ADDRESS 525 LANCASTER AVENUE

CITY, STATE, ZIP READING, PA 19611

PREPARED BY: SUSAN RAY

Four certain parcels of land together with the buildings thereon situated on Salem Street, in Woburn, Middlesex County, Massachusetts and bounded and described as follows:

PARCEL ONE:

That certain parcel of land situate in Woburn, in the County of Middlesex and said Commonwealth, described as follows:

Westerly by land now or formerly of Charles E. Quinn et al, one hundred thirty-two and 60/100 feet;

Northwesterly by said Quinn et al land, one hundred twenty-one and 05/100 feet; and

Southeasterly by land now or formerly of Daniel J. Quinn, measuring on the upland, two hundred and 37/100 feet.

Said parcel is shown as Lot B1 on said plan (Plan No. 3507<sup>B</sup>).

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 389, Page 197, with Certificate 58179.

The above described land is subject to a Taking by the Middlesex County Commissioners for relocation of Salem Street, as shown on said plan, see Filed Plan 683, Document 33795 and to a Taking by the City of Woburn for construction of sewer, Document 111000.

For Mortgagors' title see Certificate of Title No. 187189 filed in Registration Book 1066, Page 39.

PARCEL TWO:

That certain parcel of land situate in Woburn, in the County of Middlesex and said Commonwealth, described as follows:

Southwesterly by line of land marked City of Woburn (Sewer Location) as shown on plan hereinafter mentioned, five hundred twenty-three and 17/100 feet;

Northwesterly by land now or formerly of John J. Riley Company, about five hundred and eighty-one feet;

Northeasterly by the Abajona River;

Southeasterly by land now or formerly of Daniel J. Quinn, measuring on the upland, about two hundred and fifty-three feet; and

Southeasterly again, one hundred twenty-one and 05/100 feet, and

Northeasterly one hundred thirty-five and 66/100 feet, by Lot B<sup>1</sup> on said plan, ending at a point on Salem Street.

Said parcel is shown as Lot 1 on said plan (Plan No. 3507<sup>C</sup>).

All of said boundaries, except the river line, are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 612, Page 138, with Certificate 96488.

The above described land is subject to such flowage rights as may legally exist.

For Mortgagors' title see Certificate of Title No. 187190 filed with the Middlesex South District Registry of Deeds Land Registration Office in Registration Book 1066, Page 40.

PARCEL THREE:

That certain parcel of land situate in Woburn, in the County of Middlesex and said Commonwealth, described as follows:

Southeasterly by the Northwesterly line of Salem Street, two hundred twenty-one and 99/100 feet;

Southwesterly by land now or formerly of Hugh A. Quinn et al, four hundred forty-eight and 89/100 feet; and

Northwesterly eight and 62/100 feet; and

Northeasterly five hundred and 82/100 feet, by line of land marked City of Woburn (Sewer Location) as shown on plan hereinafter mentioned.

Said parcel is shown as Lot 2 on said plan (Plan No. 3507<sup>c</sup>).

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 612, Page 138, with Certificate 96488.

Together with the fee and soil of so much of Salem Street shown on said plan as was included by implication of law in bounding by Salem Street in its former location prior to its relocation by the Middlesex County Commissioners under Document 33795.

The above described land is subject to such flowage rights as may legally exist, see Order of Court, Document 338765.

For Mortgagors' title see Certificate of Title No. 187191 filed with the Middlesex South Land Registration Office in Registration Book 1066, Page 41.

PARCEL FOUR:

The land in said Woburn with the buildings thereon beginning at a corner of the North side of Salem Street at land of Charles E. Quinn et al, the line runs N 5° 55' W to a stake a distance of three and 06/100 (3.06) feet, thence turning the line runs N29° 36' 00" E two hundred and 36/100 (200.36) feet to a stone bound, thence in the same course by land of aforesaid Quinn a distance of two hundred sixty-eight and 19/100 (268.19) feet to the thread of the Aberjona River, thence following the thread of the Aberjona River in a general Southerly direction, three hundred thirty (330.00) feet more or less to the North side of a bridge on Salem Street, said point being on the North side of Salem Street, thence the line runs S 49° 00' W a distance sixty-four and 70/100 (64.70) feet to a stone bound, thence on a curve bearing to the right with a radius 350.05' a distance of one hundred thirty-eight and 19/100 (138.19) feet to a stone bound, thence the line runs S 71° 36' W a distance of hundred fifty-six and 95/100 (156.95) feet to a stone bound, thence on a curve bearing to the right with a radius of 755.61' a distance of twenty-seven and 30/100 (27.30) feet to a stake to the point of beginning.

Containing 62,500 square feet more or less. The last four courses described constitute the layout of the North side of Salem Street as laid out by the County Commission in 1920.

Being the same premises conveyed to the Mortgagors by deed of Clifford C. Boutwell et ux dated March 20, 1990 and recorded with the Middlesex South District Registry of Deeds at Book 20445, Page 72.



August 28, 2002

Clifford C Boutwell  
C/o Morse

REDACTED - PERSONAL PRIVACY

RE: Installment Loan #5027010001

Dear Valued Customer:

Thank you for allowing Sovereign Bank to service your borrowing needs. Enclosed is your cancelled document to verify satisfaction of our lien.

Thank you for your business and please feel free to contact our Customer Service Department at 1-877-SOV-BANK, Monday to Friday, 8 AM to 8 PM, and Saturday, 9 AM to 1 PM.

Sincerely,

Consumer Loan Servicing Center  
Mail Code: 10-421-LS2  
PO Box 12646  
Reading, PA 19612

Enclosure

SAT/DLB

EPA0153

0097-0256



# MASTER INSURANCE POLICY

## PREMIUM CHANGE ENDORSEMENT

This endorsement forms a part of Policy No. MP <u>064063384</u>		Branch Office and Agent Boston, MA. Edward G. Boyle Ins. Agency 1-07-4323
Policy Period Term <u>1</u> year(s) from <u>8-1-85</u> to <u>8-1-86</u>		
Issued by <u>United States Fidelity &amp; Guaranty Company</u> (Company)		
Named Insured <u>Clifford C. &amp; Grace E. Boutwell d/b/a Aberjona Auto Parts</u>		

Premium Change Endorsement No. 1

In accordance with endorsement(s) effective 8-1-85

forming part of Division(s) II, the total policy premium is amended as indicated below.

It is also agreed that Division II Liability Coverage on declaration Page is amended to read \$2750 in lieu of \$6387. Total Advance Premium should read \$5565 in lieu of \$9202.

### PREMIUM RECAPITULATION

Due at Endorsement Effective Date:  
8-1-85

Additional Premium	Return Premium
\$	\$ 3637

Premium adjustment if the Premium is payable in annual installments.

Dates Due	Previous Installments	Increase	Decrease	Revised Installments
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$

Total premium to  
Policy Expiration

Dated 4/10/86 jd

Countersigned by \_\_\_\_\_  
Authorized Representative

# MASTER INSURANCE POLICY

## GENERAL CHANGE ENDORSEMENT

This endorsement, from its effective date, forms a part of Policy No. MP <u>064063384</u>	Branch Office and Agent
Endorsement effective date <u>8-1-85</u>	Boston, MA.
Issued By <u>United States Fidelity &amp; Guaranty Company</u> <small>(Company)</small>	Edward G. Boyle Ins. Agency
Named Insured <u>Clifford C. &amp; Grace E. Boutwell d/b/a Aberjona Auto Parts</u>	1-07-4323

(The spaces above are to be completed only if this endorsement is issued subsequent to the issuance of the policy)

It is hereby agreed that Rates and Premiums are amended as follows:

CLASS CODE	Prem. BASIS	Rates		Prem.	
		B.I.	P.D.	B.I.	P.D.
M & C 75490	c)113,000	1.485	.15	1678	170
<del>PROD</del> 59993	900,000	.407	.197	366	177
BFGL				307	52
				Total	2351
				Prev. Charged	5253
				Total Ret. Prem.	2902
					399
					1134
					735

Dated 4/10/86 jd.

Countersigned by \_\_\_\_\_  
Authorized Representative

EPA0155

0097-0258

# USING INSURANCE



United States Fidelity and Guaranty Company



Fidelity and Guaranty Insurance Underwriters, Inc.



Fidelity and Guaranty Life Insurance Company

PREPARED FOR

CLIFFORD C. & GRACE E. BOUTWELL D/B/A ABERJONA AUTO PARTS

ISSUED BY

EDWARD G. BOYLE INSURANCE AGENCY, INC.

EPA0156

(Caution: On expiration of the Master Insurance Policy do not destroy contents of this jacket unless "Additional Policies", if any, have also expired. Transfer active policies to the renewal Master Insurance Policy jacket.)

0097-0259

UNITED STATES FIDELITY AND GUARANTY COMPANY  
 FIDELITY AND GUARANTY INSURANCE UNDERWRITERS, INC.

*Baltimore, Maryland*  
 Each A Capital Stock Company

Reference in this policy to "The Company" or to "This Company" means the Company designated above by the letter X.

No. MP 064063384

MASTER INSURANCE POLICY—  
 GENERAL DECLARATIONS

MP 47601

Previous Policy No.

Named Insured and P. O. Address (No., Street, Town, County, State)  
 Clifford C. & Grace E. Boutwell  
 d/b/a Aberjona Auto Parts  
 278 Salem Street, Woburn, MA 01801

Branch Office and Agent  
 Boston, MA  
 Edward G. Boyle Ins  
 1-07-4323

Policy Term: 1 Years      8/1/85 Inception (Mo. Day Yr.)      8/1/86 Expiration (Mo. Day Yr.)      12:00 Noon, standard time at the address of the Named Insured as stated herein.

Business of the Named Insured is Auto Parts Store

Insurance is provided only with respect to those Coverages designated below by the word "Included" but only to the extent set forth in the Specific Forms and Endorsements made a part of this Policy.

COVERAGES		ENTER "INCLUDED" IF COVERAGE IS PROVIDED.
DIVISION I PROPERTY COVERAGE	Building(s)	1,957.00
	Personal Property	858.00
	Additional Coverages (Specify)	
DIVISION II LIABILITY COVERAGE	Comprehensive Liability—Except Automobile	6,387.00
	Comprehensive Liability—Automobile	
	Automobile Physical Damage	
DIVISION III FIDELITY, FORGERY, BURGLARY, OR OTHER CRIME COVERAGES	Comprehensive Dishonesty, Disappearance and Destruction	
	Blanket Crime Coverage	
	Additional Coverages (Specify)	
DIVISION IV BOILER AND MACHINERY	Boiler and Machinery	
DIVISION V MISCELLANEOUS COVERAGES	Glass	
	Inland Marine	
Total Advance Premium		\$ 9,202.00
If Paid in Annual Installments: Amount Due at Inception		\$
Each Subsequent Anniversary		\$

This policy is made and accepted in consideration of the conditions, provisions, stipulations and declarations contained herein and in the Specific Forms and Endorsements attached hereto.

IN WITNESS WHEREOF, this Company has caused this Policy to be signed by its President and its Secretary and countersigned by a duly authorized representative.  
 UNITED STATES FIDELITY AND GUARANTY CO.      FIDELITY AND GUARANTY INSURANCE UNDERWRITERS, INC.

*William F. Spliedt* Secretary      *Paul J. Scheel* President      *William F. Spliedt* Secretary      *Paul J. Scheel* President

Agency at Woburn, MA 01801

Countersignature Date am 3/19/86      Countersigned by \_\_\_\_\_      Authorized Representative \_\_\_\_\_

MP-15 (7-72)

(continued on reverse side)

0097-0260

EPA0157

GENERAL POLICY CONDITIONS APPLICABLE TO DIVISION I

**CONFORMITY WITH STATUTE.**

The terms of this policy and forms attached hereto which are in conflict with the statutes of the state wherein this policy is issued are hereby amended to conform to such statutes.

GENERAL POLICY CONDITIONS APPLICABLE TO DIVISION I AND DIVISION II

**CANCELLATION**

- (a) The words "five days" in the cancellation provision of Division I of the policy are deleted and the words "ten days" are substituted therefor.
- (b) The cancellation provision of Division I as amended by (a) above shall also apply to Division II, except that as respects any Division II coverage on a reporting basis, or subject to audit or retrospective rating, premium adjustment shall be made as soon as practicable after cancellation becomes effective, and payment or tender of unearned premium is not a condition of cancellation.

GENERAL POLICY CONDITIONS APPLICABLE TO DIVISIONS I, II, III, IV AND V.

**1. SPECIAL DEFINITIONS**

Wherever in any form or endorsement attached:

- (a) the word "bond" or "policy" appears it shall mean the Division of this policy of which such form is a part;
- (b) the word "Underwriter" or "Surety" appears it shall mean the Company; and
- (c) the words "policy period" or "bond period" appear they shall mean the policy term as set forth in the General Declarations.

**2. PREMIUM**

The premium stated in the General Declarations as total advance premium shall be adjusted upon termination of the policy in accordance with the premium computation provisions, if any, of the applicable forms included in each Division of this policy.

**3. TIME OF INCEPTION**

To the extent that any coverage in this policy replaces a coverage in another policy which terminates at 12:01 A.M. (Standard Time) on the inception date of this policy, this policy as respects such replaced coverage only shall be construed to be effective at 12:01 A.M. (Standard Time) instead of at noon (Standard Time).

**This policy shall not be valid unless countersigned by the duly authorized agent of the Company.**

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If coverage under this policy is provided by the Fidelity and Guaranty Insurance Underwriters, Inc., the following shall apply:

The entire liability under this policy is reinsured by United States Fidelity and Guaranty Company, Baltimore, Maryland, and the insured is hereby given and granted the same rights of recovery against United States Fidelity and Guaranty Company as the insured has against Fidelity and Guaranty Insurance Underwriters, Inc.

It is hereby agreed and acknowledged that the liability created hereunder is a joint and/or several obligation.

**UNITED STATES FIDELITY AND GUARANTY COMPANY**

*William F. Spliedt*

Secretary

*Paul J. Scheel*

President

EPA0158

0097-0261



# COVERAGE CHANGE SUMMARY

## COMMERCIAL FIRE AND ALLIED LINES MASSACHUSETTS

### IMPORTANT CHANGES IN YOUR POLICY

This renewal policy may have increased or reduced your coverage from the policy it replaces. To help you determine the broadening or reduction which may have occurred, the following is a summary of all changes which have occurred over the last three years to many policy forms and endorsements.

Whether or not a change applies to your policy depends on when your policy and its predecessor were issued and on which forms and endorsements are part of your policy. The changes listed with an effective date lying between the dates on which your policy and its predecessor were issued apply to your policy only if the listed policy form or endorsement is part of your policy.

#### I. Changes effective February 1, 1980/April 1, 1980.

Changes A through C are all broadenings of coverage.

##### A. Foundations and Excavations Endorsement CF 10 44 (Edition 10 79)

This new endorsement provides foundations and excavations coverage for all the perils you are insuring against in your policy, including Earthquake.

##### B. Reporting Endorsement E CF 13 52 (Edition 10 79)

This endorsement has been revised to allow coverage to be written on a blanket basis. For example, one limit of liability can cover both your property and that of others instead of having separate limits.

##### C. Incidental Values Endorsement (For Use With Reporting Endorsements A and E) CF 13 72 (Edition 10 79)

This endorsement has been revised so that it can now be attached to Reporting Endorsement E. You can now report the total of all incidental values of personal property at all locations.

Changes D through N are all reductions of coverage.

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0097-0262

Mass. 42 (1-83)

D. Special Building Form CF 00 13 (Edition 10 79)

Theft Exclusion:

The exception in this exclusion has been reworded to only provide theft coverage for property which is "installed or attached to and made part of a building". The coverage previously applied to property which was an "integral part" of a building.

E. Earthquake Property Form CF 10 43 (Edition 10 79)

Other Provisions - Foundations and Excavations:

This provision, which provided automatic earthquake coverage for the cost of excavations, foundations and pilings, has been withdrawn from this form. Coverage is now available under the new Foundations and Excavations Endorsement CF 10 44.

F. Builders' Risk Basic Form CF 11 01 (Edition 10 79)

G. Builders' Risk Completed Value Form CF 11 02 (Edition 10 79)

H. Builders' Risk Reporting Form CF 11 05 (Edition 10 79)

I. Contractor's Automatic Builders' Risk Completed Value Reporting Form CF 11 10 (Edition 10 79)

The following applies to Forms F through I:

Deductibles:

A \$500 Vandalism or Malicious Mischief deductible is introduced to provide conformity with related Builders' Risk forms. Previously a \$100 deductible applied.

J. Combined Business Interruption and Extra Expense Insurance Form CF 15 05 (Edition 10 79)

K. Extra Expense Insurance Form CF 15 06 (Edition 10 79)

The following applies to Forms J and K:

Limitations and Exclusions - Special Exclusion:

An additional Special Exclusion has been added to exclude from extra expense coverage any losses incurred after the period of restoration caused by lapsed or cancelled licenses or contracts.

0097-0263

- L. Special Coverage Endorsement CF 10 03 (Edition 10 79)
- M. Special Coverage Endorsement - Builders' Risk CF 10 04 (Edition 10 79)

The following applies to Endorsements L and M:

Theft Exclusion:

The exception in this exclusion has been reworded to only provide theft coverage for property which is "installed or attached to and made a part of a building". The coverage previously applied to property which was an "integral part" of a building.

- N. Earthquake Extension Endorsement CF 10 41 (Edition 10 79)

The Foundations and Excavations coverage clause, which provided automatic earthquake coverage for the cost of excavations, foundations and pilings, has been withdrawn from this form. Coverage is now available by attaching new Foundations and Excavations Endorsement CF 10 44.

II. Changes effective March 1, 1980

Massachusetts Amendatory Endorsement IL 01 04 (Edition 11 79)

Reduction of Coverage:

This endorsement has been amended to include a new provision for cancellation by the Company to conform with Massachusetts Law. The cancellation provisions allowing the Company to cancel for any reason during the first 60 days following policy inception now also apply during the 60 days following any anniversary date. After the 60 day period following policy inception or anniversary, the Company may cancel for only certain specified reasons.

III. Changes effective May 1, 1981/July 1, 1981

Changes A through D are all broadenings of coverage.

- A. General Property Form CF 00 11 (Edition 05 81)

Extension of Coverage - Off Premises:

- a. This extension of coverage has been revised to include a minimum limit of \$1,000 for off premises coverages for personal property. Previously, the extension could have been for an amount less than \$1,000.

COMMERCIAL FIRE

Page 4 of 14

- b. The restriction that your personal property off premises must be in the process of cleaning, repairing, reconstruction or restoration is deleted.

B. Special Personal Property Form CF 00 14 (Edition 05 81)

1. Extension of Coverage - Off Premises:

This extension of coverage is introduced to provide a 2%, \$1,000 minimum/\$5,000 maximum off premises coverage for personal property, subject to limitations. Previously, no coverage was provided.

2. Extension of Coverage - Outdoor Trees, Shrubs and Plants:

An Extension of Coverage for Outdoor Trees, Shrubs and Plants is introduced to provide coverage up to \$1,000 against direct loss by the perils of fire, lightning, explosion, riot, civil commotion or aircraft. Previously, no coverage was provided.

C. Demolition Cost Endorsement CF 04 06 (Edition 05 81)

Demolition Cost coverage may now be obtained separately from Contingent Liability From Operation of Building laws coverage.

D. Vacancy or Unoccupancy Endorsement CF 04 50 (Edition 05 81)

The 90 day limitation for each permitted period of vacancy or unoccupancy has been eliminated.

E. Off Premises Power Clause CF 15 46 (Edition 05 81)

Reduction of Coverage:

Coverage under this form is now limited to only the "specified perils" of fire, extended coverage, vandalism or malicious mischief and leakage from automatic fire protection systems.

IV. Changes effective November 1, 1981/January 1, 1982

Massachusetts Replacement Cost Endorsement CF 04 22 (Edition 07 81)

Reduction of Coverage:

This is a new endorsement to comply with Massachusetts Law. It requires destroyed or damaged property to be replaced or repaired at the policy address or elsewhere in Massachusetts within two years of the date of loss.

COMMERCIAL FIRE

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V. Changes effective July 1, 1982

Massachusetts Amendatory Endorsement CF 01 09 (Ed. 6-82)

The following reduction in coverage is required by Massachusetts law:

1. Notice of cancellation to the insured for reasons other than non-payment of premium is 5 days instead of 20 days, and notice of cancellation for non-payment of premium is 10 days instead of 20 days.
2. In case of loss the insured must now also:
  - a. protect property from further damage
  - b. separate damaged and undamaged personal property;
  - c. put property in best possible order;
  - d. furnish an inventory of damaged property;
  - e. issue a sworn statement including changes of title, use, occupancy, location, possession or exposures of property and whether or not it stood on leased ground;
  - f. furnish a copy of descriptions and schedules in all policies;
  - g. furnish detailed repair estimates;
  - h. exhibit remains of property to company; and
  - i. submit to examinations under oath.

VI. Changes effective January 1, 1983/March 1, 1983

A. Broadenings of Coverage:

1. General Property Form CF 00 11 (Edition 01 83)

Section VI - Perils Insured Against - Vandalism or Malicious Mischief:

- a. The change in temperature or humidity exclusion is deleted from the vandalism peril. Since loss due to change in temperature or humidity caused by vandalism or malicious mischief is now automatically covered under this form, vandalism coverage is simultaneously deleted from optional On Premises Power Failure - Loss Assumption Endorsement - Riot CF 04 18 in order to avoid duplication of coverage.
- b. An exclusion has been reworded to clarify that unoccupancy which is usual or incidental to the described occupancy is not excluded.

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2. Special Building Form CF 00 13 (Edition 01 83)

Section VIII - Exclusions:

Exclusion E.3. is clarified to indicate that unoccupancy which is usual or incidental to the described occupancy is not excluded.

3. Special Personal Property Form CF 00 14 (Edition 01 83)

Section III - Property Subject to Limitations - Item 1:

The sublimits have been increased as follows:

- a. Fur and fur garments: From \$1,000 to \$2,500 per occurrence.
- b. Jewelry and watches: From \$1,000 to \$2,500 per occurrence. This limitation now does not apply to items valued at \$50 or less per item. Previously, it did not apply to items of \$25 or less.
- c. Patterns and dies: From \$1,000 to \$2,500 per occurrence.

4. Earthquake Property Form CF 10 43 (Edition 12 81)

This form is revised to provide coverage for loss caused by volcanic eruption.

B. Reductions of Coverage:

1. General Property Form CF 00 11 (Edition 01 83)

- a. Section III - Extensions of Coverage - Valuable Papers and Records:

"Computer programs" are now included under "valuable papers and records" and are subject to the limitation specified under this extension of coverage. You should specifically insure computer programs for full values under other types of insurance.

- b. Section VII - Exclusions:

(1). Exclusion 9. is introduced to clarify that this form does not cover loss caused by earth movement.

(2) Exclusion 10. is introduced to clarify that this form does not cover loss caused by volcanic eruption. Coverage for earthquake and volcanic eruption are provided by the optional earthquake coverage form and endorsements.

c. Section VIII - Valuation:

A valuation basis has been added stating that the value of computer programs cannot exceed the cost of labor incurred by the named insured for transcribing or copying such programs.

2. Special Building Form CF 00 13 (Edition 01 83)

Section VIII - Exclusions:

- a. Exclusion E.8. is introduced to clarify that this form does not cover loss caused by volcanic eruption. Such coverage is now available in the optional earthquake coverage form and endorsements.
- b. Exclusion E.9. is introduced to exclude loss caused by faulty design, specifications, workmanship, etc. if an excluded peril contributes to the loss at any time. Thus, faulty construction, design or workmanship that has contributed to a loss does not void the application of any other exclusion contained in this form.

3. Special Personal Property Form CF 00 14 (Edition 01 83)

a. Section III - Property Subject to Limitations - Item 2:

"Computer programs" are now included under "valuable papers and records" and are subject to the limitation specified.

b. Section IV - Extensions of Coverage:

(1). Item C. Valuable Papers and Records:

The five hundred dollar amount which the insured is permitted to apply to cover the cost of reproducing, replacing or restoring items included under valuable papers and records now also applies to the cost of reproducing, replacing or restoring computer programs.

0097-0268

(2). Item E. Extra Expense:

The exclusion under this extension which excludes the cost of replacing or restoring items included under valuable papers and records is reworded to also exclude the cost of replacing or restoring computer programs.

c. Section VI - Exclusions:

Exclusions A.13 is introduced to clarify that this form does not cover loss caused by volcanic eruption. Such coverage is now available in the optional earthquake coverage form and endorsements.

d. Section VII - Valuation:

A valuation basis has been added stating that the value of computer programs cannot exceed the cost of labor incurred by the named insured for transcribing or copying such programs.

4. Errors and Omissions Form CF 00 63 (Edition 01 83) - Section V.A. - Exclusions
5. Business Interruption - Gross Earnings Form for Mercantile or Non-Manufacturing Risks CF 15 03 (Edition 01 83) - Section II - General Exclusions
6. Business Interruption - Gross Earnings Form for Manufacturing or Mining Risks CF 15 04 (Edition 01 83) Section II - General Exclusions

The following applies to Forms D. through F.:

An exclusion has been introduced to clarify that loss caused by volcanic eruption is not covered. Such coverage is now available in the optional earthquake coverage form and endorsements.

C. Endorsements (Broadenings and Reductions):

1. Protective Safeguards Endorsements IL 00 14 (Edition 01 83)

Broadening of Coverage:

Item D. Other Protective Safeguard Clause(s)

This provision has been amended to clarify that the insured must maintain only the protective safeguard system which is under the control of the insured.

2. Amendatory Endorsement CF 01 24 (Edition 12 79)

a. Broadening of Coverage:

This new endorsement amends the policy as follows:

(1). Personal Property of the Insured:

The Personal Property of the Insured coverage is amended to delete the requirement that personal property must be "usual to the occupancy of the named insured."

(2). Subrogation:

This clause, contained in all property and time element forms, now provides that the insured may waive in writing, after a loss, his right of recovery against any of the following third parties:

(a). A third party insured under the policy.

(b). A controlling or subsidiary entity.

(c). A tenant of the named insured.

(3). Permits and Use:

This clause, contained in all property forms, is amended by permitting:

(a). coverage for additions, alterations and repairs including temporary structures and materials, equipment and supplies used for such additions, alterations and repairs. Previously, such coverage was permitted only in the General Property Form; the all risk forms covered only alterations and repairs.

(b). vacancy beyond a period of 60 days subject to a 15% reduction in loss payments. Previously, vacancy beyond 60 days resulted in suspension of coverage.

(c). increased hazards and change in use or occupancy.

(d). errors in stating the name and location of covered buildings or of buildings and personal property covered under a single item of insurance, provided there is no willful concealment or misrepresentation.

(4). Extensions of Coverage - Newly Acquired Property:

The amount of coverage now permitted for newly acquired property is 25% of the amount of insurance specified for Coverage A - Buildings. Previously, under the Special Building Form, this 25% could not exceed \$100,000. Under the General Property Form, the insured was permitted to apply only 10%, but not exceeding \$25,000, of the Coverage A - Buildings amount of insurance.

b. Reduction of Coverage:

Subrogation:

Applicable to the Special Personal Property Form CF 00 14:

Previously, the policy explicitly stated that the insured could accept bills of lading, receipts or contracts of transportation on property in transit which are ordinarily issued by carriers containing a limitation as to the value of the goods.

3. Deductible Clause No. 3 CF 03 48 (Edition 01 83):

Broadening of Coverage:

The \$10,000 minimum deductible is reduced to \$5,000.

4. Specified Perils Off Premises Power Failure - Loss Assumption Endorsement IL 04 09 (Edition 01 83)

Broadening of Coverage:

The endorsement, previously numbered CF 04 17, has been revised to provide for selecting coverage for loss to either or both buildings and personal property. Previously, under Off Premises Power Failure - Loss Assumption Endorsement - Specified Perils CF 04 17, coverage was available only for personal property.

5. All Risks Off Premises Power Failure - Loss Assumption Endorsement IL 04 10 (Edition 01 83)

Broadening of Coverage:

This new endorsement provides for selection of all risk off premises power failure coverage for either or both buildings and personal property. A 12 hour waiting period deductible applies, unless loss is caused by one of the specified perils. This endorsement does not cover loss resulting from damage to power transmission lines.

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6. Miscellaneous Real or Building Property Endorsement IL 04 11 (Edition 01 83)

Broadening of Coverage:

This new endorsement enables commercial condominium unit-owners to insure real or building property when required by the Condominium Declaration.

7. Condominium Unit-Owners Loss Assessment Coverage Endorsement IL 04 12 (Edition 01 83)

Broadening of Coverage:

This new endorsement provides coverage for a commercial condominium unit-owner for loss assessment charges made by the condominium association.

8. On Premises Power Failure - Loss Assumption Endorsement - Riot CF 04 18 (Edition 01 83)

Broadening of Coverage:

This endorsement has been revised to provide for selecting on premises power failure coverage for either or both buildings and personal property due to change in temperature or humidity caused by the peril of riot. Previously, coverage was available only for personal property.

9. Special Personal Property Alcoholic Beverage Tax Exclusion Endorsement IL 09 14 (Ed. 01 83)

Reduction of Coverage:

This new endorsement allows the value of government taxes and custom duties on alcoholic beverages to be excluded for all losses other than theft under the Special Personal Property Form. As permitted under Public Law 95-423, the Federal Treasury may refund these taxes and duties on alcoholic beverages lost or rendered unmarketable due to fire, flood, casualty or other disaster, or damage (excluding theft) resulting from vandalism or malicious mischief.

10. Volcanic Action Extension Endorsement IL 09 15 (Edition 01 83)

Broadening of Coverage:

This new endorsement provides "above ground" volcanic action coverage.

11. Extended Coverage Endorsement CF 10 01 (Edition 01 83)

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12. Optional Perils Endorsement CF 10 02 (Edition 01 83)

The following applies to Endorsements K. and L.:

Reduction of Coverage:

Section II - Exclusions:

An exclusion has been introduced to clarify that loss caused by volcanic eruption is not covered. Such coverage is now available in the optional earthquake coverage form and endorsements.

13. Special Coverage Endorsement CF 10 03 (Edition 01 83)

a. Broadening of Coverage:

Section II - Exclusions:

Exclusion A.5. is clarified to indicate that unoccupancy which is usual or incidental to the described occupancy is not excluded.

b. Reductions of Coverage:

Section II - Exclusions:

(1). Exclusion A.7 is introduced to clarify that this form does not cover loss caused by volcanic eruption. Such coverage is now available in the optional earthquake coverage form and endorsements.

(2) Exclusion A.8. is introduced to exclude loss caused by faulty design, specifications, workmanship, etc. if an excluded peril contributes to the loss at any time. Thus, faulty construction, design or workmanship that has contributed to a loss does not void the application of any other exclusion contained in this form.

14. Special Coverage Endorsement - Builders' Risk CF 10 04 (Edition 01 83)

Reduction of Coverage:

Section III - Exclusions:

Exclusions A.7. is introduced to clarify that this endorsement does not cover loss caused by volcanic eruption. Such coverage is now available in the optional earthquake coverage form and endorsements.

15. Vandalism or Malicious Mischief Endorsement CF 10 21 (Edition 01 83)

Broadening of Coverage:

Item F. is clarified to indicate that unoccupancy which is usual or incidental to the described occupancy is not excluded.

16. Sprinkler Leakage Earthquake Extension Endorsement CF 10 39 (Edition 12 81)

17. Earthquake Extension Endorsement CF 10 41 (Edition 12 81)

18. Foundations and Excavations Endorsement CF 10 44 (Edition 12 81)

The following applies to Endorsements P. through R.:

Broadening of Coverage:

Coverage for loss caused by volcanic eruption has been added.

19. Builders' Risk Renovations Coverage Endorsement CF 11 13 (Edition 01 83)

Broadening of Coverage:

This new endorsement provides a means to cover renovations to existing buildings under the Builders' Risk Program. By attaching this endorsement to Builders' Risk Completed Value Form CF 11 02 or Builders' Risk Reporting Form CF 11 05, the interest of the building owner or of the contractor or of both in improvements, alterations or repairs is covered. In determining the provisional amount of insurance, the value of real property which existed prior to the renovations should be excluded.

20. Builders' Risk Renovations Exclusion Clause CF 11 16 (Edition 01 83)

Reduction of Coverage:

This new endorsement excludes under General Property Form CF 00 11 and Special Building Form CF 00 13 the value of building renovations (improvements, alterations or repairs) and of real property that is demolished or permanently removed in the course of renovations. The value of renovations can be insured under the Builders' Risk Program. (See above).

21. Agreed Amount Endorsement CF 12 10 (Edition 01 83)

Broadening of Coverage:

This endorsement has been revised to allow a waiver of inventory of the undamaged property if the aggregate claim for loss is less than 10% of the total amount of insurance. Previously, the amount permitted was only less than 5%.

22. Renewal Endorsement CF 12 40 (Edition 01 83)

Broadening of Coverage:

Reference to "annual" has been deleted from this endorsement so that policies may be renewed for other periods. The renewal term must be shown in the endorsement.

23. Massachusetts Condominium Association Property Endorsement CF 17 05 (Edition 01 83)

Broadening of Coverage:

This new endorsement provides coverage for condominium association property by revising several provisions in the General and Special Property Forms.

24. Condominium Unit-Owners Property Endorsement CF 17 02 (Edition 01 83)

Broadening of Coverage:

This new endorsement revises the Personal Property of the Insured provisions of the basic forms to provide coverage for a unit-owner of a commercial condominium, including coverage for fixtures, improvements and alterations owned by the unit-owner.

25. Condominium Endorsement (Additional Property Provisions) CF 17 03 (Edition 01 83)

This new endorsement can be used to:

1. exclude coverage for fixtures and other items or
2. specify what property is to be covered.

This endorsement may be attached to the condominium association endorsement or the unit-owners endorsement to provide coverage as specified in the Condominium Declaration.

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# MASTER INSURANCE POLICY

## DIVISION I—DECLARATIONS

### PROPERTY COVERAGE

Forming part of Policy No. MP <u>064063384</u>	Dated <u>8/1/85</u>	Branch Office and Agent <b>Boston, MA</b>
Issued By <u>United States Fidelity and Guaranty Company</u>		Edward G. Boyle
Named Insured <u>Grace E. Boutwell d/b/a Aberjona Auto Parts</u>		Ins. Agency, Inc. 1-07-4323

INSURANCE IS PROVIDED AGAINST ONLY THOSE PERILS AND FOR ONLY THOSE COVERAGES INDICATED BELOW AND AGAINST OTHER PERILS AND FOR OTHER COVERAGES ONLY WHEN ENDORSED HEREON OR ADDED HERETO.

AMOUNT	PERIL(S) Insured Against and Coverage(s) Provided (Insert Name of Each)	Enter "included" or a Premium if Coverage is Provided.
\$ <b>285,000.</b> XXXXXXX	<b>FIRE AND LIGHTNING</b>	Incl.
	<b>EXTENDED COVERAGE</b>	Incl.
	<b>V.M.M.</b>	Incl.
	<b>ALL RISK</b>	Incl.

Item No.	AMOUNT	Per Cent of Co-insurance Applicable	Subject to Attached Form No(s), Edition Date(s)	DESCRIPTION AND LOCATION OF PROPERTY COVERED Show construction, type of roof and occupancy of building(s) covered or containing the property covered.
1.	\$250,000.	80	CF0013(10-83) CF0109(06-82) IL0002(01-77) CF0346(05-77) IL0018(10-84) CF0124(12-79)	On the masonry building occupied as a Used Auto Parts Store situated at: 278 Salem Street Woburn, MA 01801
2.	35,000.	80	CF0014(10-83) CF0109(06-82) IL0002(01-77) CF0018(10-84) CF0124(12-79)	On furniture, fixtures & equipment in above described building.

It is important that the written portions of all policies covering the same property read exactly alike. If they do not, they should be made uniform at once.

am 3/19/86

In case of fire notify the Company or its local Agent at once in writing.

Mortgage Interest: Subject to the mortgage provisions, lines 87 to 104 herein, loss, if any, on real estate, shall be payable to:

Woburn Five Cents Savings Bank, 19 Pleasant St., Woburn, MA

INSERT NAME(S) OF MORTGAGEE(S) AND MAILING ADDRESS(ES)

EPA0174

*This form cancels and replaces any coverage on buildings provided under any other form made a part of this policy, but only with respect to buildings to which this form is shown to be applicable.*

*Insurance applies only to item(s) specifically described in this policy for which an amount of insurance is shown and, unless otherwise provided, all provisions and stipulations of this form and policy shall apply separately to each such item.*

## SECTION I—PROPERTY COVERED

When insurance under this policy covers "Building(s)", such insurance shall cover in accordance with the following description of coverage.

**COVERAGE A—BUILDING(S):** Building(s) or structure(s) shall include attached additions and extensions; fixtures, machinery and equipment constituting a permanent part of and pertaining to the service of the building(s); materials and supplies intended for use in construction, alteration or repair of the building(s) or structure(s); yard fixtures; personal property of the named Insured used for the maintenance or service of the described building(s), including fire extinguishing apparatus, outdoor furniture, floor coverings and appliances for refrigerating, ventilating, cooking, dishwashing and laundering (but not including other

personal property in apartments or rooms furnished by the named Insured as landlord); all while at the described premises.

**DEBRIS REMOVAL:** This policy covers expense incurred in the removal of debris of the property covered hereunder which may be occasioned by loss by a peril not otherwise excluded. The total amount recoverable under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying to the described property.

## SECTION II—ADDITIONAL COVERAGE

**COLLAPSE—**This policy insures against risk of direct physical loss involving collapse of a building or any part of a building caused only by one or more of the following:

- a. fire; lightning; windstorm; hail; explosion; smoke; aircraft; vehicles; riot; civil commotion; vandalism or malicious mischief; breakage of glass; falling objects; weight of snow, ice or sleet; water damage; all only as insured against in this policy;
- b. hidden decay;
- c. hidden insect or vermin damage;
- d. weight of people or personal property;
- e. weight of rain which collects on a roof;
- f. use of defective material or methods in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation.

This Company shall not be liable for loss to the following types of property under items b., c., d., e. and f. unless the loss is a direct result of the collapse of a building:

1. Outdoor radio or television antennas, including their lead-in wiring, masts or towers; awnings; gutters and downspouts; yard fixtures;
2. If specifically covered in this policy, outdoor swimming pools; fences; piers, wharves and docks; beach or diving platforms or appurtenances; retaining walls; walks, roadways and other paved surfaces.

Collapse does not include settling, cracking, shrinkage, bulging or expansion.

This Additional Coverage does not increase the amount(s) of insurance provided in this policy.

## SECTION III—PROPERTY NOT COVERED

This policy does not cover:

- A. Outdoor swimming pools; fences; piers, wharves and docks, beach or diving platforms or appurtenances; retaining walls not constituting a part of a building; walks, roadways and other surfaces.
- B. The cost of excavations, grading or filling; foundations of buildings, machinery, boilers or engines which foundations are below the under-surface of the lowest basement floor, or where there is no basement,

below the surface of the ground; pilings, piers, pipes, flues and drains which are underground, pilings which are below the low water mark.

- C. Outdoor signs, whether or not attached to a building or structure.
- D. Lawns, outdoor trees, shrubs and plants, except as provided in the Extensions of Coverage.
- E. Property which is more specifically covered in whole or in part by this or any other contract of insurance, except for the amount of loss which is in excess of the amount due from such more specific insurance.

## SECTION IV—PROPERTY SUBJECT TO LIMITATIONS

The following property is subject to these additional limitations:

- A. Plumbing, heating, air conditioning or other equipment or appliances (except fire protective systems) are not covered against loss caused by or resulting from freezing while the described buildings are vacant or unoccupied, unless the named Insured shall have exercised due diligence with respect to maintaining heat in the buildings or unless such equipment and appliances had been drained and the water supply shut off during such vacancy or unoccupancy.
- B. Steam boilers, steam pipes, steam turbines or steam engines are not covered against loss caused by any condition or occurrence within such boilers, pipes, turbines or engines (except direct loss resulting from the explosion of accumulated gases or unconsumed fuel within the firebox, or combustion chamber, of any fired vessel or within the flues or passages which conduct the gases of combustion therefrom).
- C. Hot water boilers or other equipment for heating water are not covered against loss caused by any condition or occurrence within such boilers or equipment, other than an explosion.
- D. Glass is not covered against loss for more than \$50 per plate, pane, multiple plate, insulating unit, radiant heating panel, jalousie, louver or shutter, nor for more than \$250 in any one occurrence, unless caused by fire, lightning, windstorm, hail, aircraft, vehicles, discharge from fire protection or building service equipment, explosion, riot or civil commotion, and then this Company shall be liable only to the extent that such perils are insured against in this policy.
- E. Fences, pavements, outdoor swimming pools and related equipment, retaining walls, bulkheads, piers, wharves or docks, when covered under this policy, are not covered against loss caused by freezing or

thawing, impact of watercraft, or by the pressure or weight of ice or water whether driven by wind or not.

- F. Metal smokestacks and, when outside of buildings (1) awnings of fabric or slat construction, canopies of fabric or slat construction, including their supports, and (2) radio or television antennas, including their lead-in wiring, masts or towers are not covered against loss caused by ice, snow, sleet, windstorm or hail.
- G. The interior of buildings is not covered against loss caused by rain, snow, sand or dust, whether driven by wind or not, unless (1) the buildings shall first sustain an actual damage to roof or walls by the direct action of wind or hail, and then this Company shall be liable for loss to the interior of the buildings as may be caused by rain, snow, sand or dust entering the buildings through openings in the roof or walls made by direct action of wind or hail; or (2) such loss results from fire, lightning, aircraft, vehicles, explosion, riot, civil commotion, vandalism, malicious mischief, weight of ice, snow or sleet to the extent that such perils are insured against in this policy.
- H. Buildings or structures in process of construction, including materials and supplies therefor, when covered under this policy, are not covered against loss unless caused by fire, lightning, windstorm, hail, aircraft, vehicles, smoke, explosion, riot, civil commotion, vandalism or malicious mischief, and then this Company shall be liable only to the extent that such perils are insured against in this policy.
- I. Property undergoing alterations, repairs, installations or servicing is not covered against loss if such loss is directly attributable to the operations or work being performed thereon, unless a peril not excluded by this policy ensues, and then this Company shall be liable for only loss caused by such ensuing peril.

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## SECTION V—EXTENSIONS OF COVERAGE

Except with respect to Extension D, Replacement Cost:

(A) Each of the limits of liability specified for the following Extensions of Coverage applies as an additional amount of insurance.

(B) The Coinsurance Clause shall not apply to loss under the Extensions of Coverage.

The total amount recoverable under the Extensions of Coverage in this form and Extensions of Coverage in any other form made a part of this policy are not cumulative and shall not exceed the largest amount recoverable under any single form made a part of this policy.

When, in accordance with the Other Insurance condition, there is Contributing Insurance, this Company shall not be liable for more than its pro rata share of the limits set forth in the following Extensions of Coverage.

**A. Newly Acquired Property:** The named insured may apply up to 25% of the amount of insurance specified for Building(s), but not exceeding \$100,000, to cover direct loss in any one occurrence by a peril not otherwise excluded to the following described property:

1. New buildings and new structures being constructed on the described premises and intended for similar occupancy when not otherwise covered by insurance. This coverage shall cease 30 days from the date construction begins or on the date the values of new construction are reported to this Company, or on the expiration date of the policy, whichever occurs first.
2. Building acquired by the named Insured at any locations, elsewhere than at the described premises, within or between the fifty states of the United States of America, the District of Columbia and Puerto Rico and used for similar occupancies or warehouse purposes. This coverage shall cease 30 days from the date of such acquisition or on the date values of the buildings are reported to this Company, or on the expiration date of the policy, whichever occurs first.
3. Additional premium shall be due and payable for values so reported from the date construction begins or the property is acquired.

**B. Off-Premises:** The named Insured may apply up to 2% of the amount of insurance specified for Building(s), but not exceeding \$5,000, at a described location to cover direct loss in any one occurrence by a peril not otherwise excluded to property covered under Building(s) while removed from the described premises for purposes of cleaning,

repairing, reconstruction or restoration. This Extension of Coverage shall not apply to property in transit, nor to property on any premises owned, leased, operated or controlled by the named Insured.

**C. Outdoor Trees, Shrubs and Plants:** The named Insured may apply up to \$1,000 to cover outdoor trees, shrubs and plants at the described premises against direct loss in any one occurrence by the perils of fire, lightning, explosion, riot, civil commotion or aircraft, but only to the extent such perils are insured against herein. This Company shall not be liable for more than \$250 on any one tree, shrub or plant, including expense incurred for removing debris thereof.

**D. Replacement Cost:** In the event of loss to a building or structure covered under this policy, when the full cost of repair or replacement is less than \$1,000, the coverage of this policy is extended to cover the full cost of repair or replacement (without deduction for depreciation). Coverage shall be applicable only to a building or structure covered hereunder, but excluding outdoor furniture, outdoor equipment, floor coverings, awnings, and appliances for refrigerating, ventilating, cooking, dishwashing and laundering, all whether or not permanently attached to the building or structure.

This Company shall not be liable under this Extension of Coverage unless the whole amount of insurance applicable to the building or structure for which claim is made is equal to or in excess of the amount produced by multiplying the actual cash value of such property at the time of the loss by the coinsurance percentage applicable (specified on the first page of this policy), or by endorsement).

## SECTION VI—DEDUCTIBLE CLAUSE

The sum of \$100 shall be deducted from the amount of loss to property in any one occurrence. This deductible shall apply separately

to each building. The aggregate amount of this deductible in any one occurrence shall not exceed \$1,000.

## SECTION VII—PERILS INSURED AGAINST

This policy insures against risks of direct physical loss unless the loss is excluded in Section IX—Exclusions below, subject to the provisions and stipulations herein and in the policy of which this form is made a part.

## SECTION VIII—COINSURANCE CLAUSE

This Company shall not be liable for a greater proportion of any loss to the property covered than the amount of insurance under this policy for such property bears to the amount produced by multiplying the actual cash value of such property at the time of the loss by the coinsurance percentage applicable (specified on the first page of this policy, or by endorsement).

In the event that the aggregate claim for any loss is both less than \$10,000 and less than 5% of the total amount of insurance applicable

to the property involved at the time such loss occurs, no special inventory or appraisal of the undamaged property shall be required, providing that nothing herein shall be construed to waive the application of the first paragraph of this clause.

The value of property covered under Extension of Coverage, and the cost of the removal of debris, shall not be considered in the determination of actual cash value when applying the Coinsurance Clause.

## SECTION IX—EXCLUSIONS

1. This policy does not insure against loss caused directly or indirectly by any of the following. Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss.

**A.** Loss occasioned directly or indirectly by enforcement of any ordinance or law regulating the use, construction, repair, or demolition of buildings or structures including debris removal expense.

**B.** Loss caused directly or indirectly by the interruption of power or other utility service furnished to the described premises if the interruption takes place away from the described premises. If a peril not otherwise excluded ensues on the described premises, this Company will pay only for loss caused by the ensuing peril.

**C.** Loss caused by, resulting from, contributed to or aggravated by any of the following:

1. earth movement, including but not limited to earthquake, landslide, mudflow, earth sinking, earth rising or shifting;

2. flood, surface water, tidal water or tidal wave, overflow of streams or other bodies of water, or spray from any of the foregoing, all whether driven by wind or not;

3. water which backs up through sewers or drains; or

4. water below the surface of the ground including that which exerts pressure on or flows, seeps or leaks through sidewalks, driveways, foundations, walls, basement or other floors, or through doors, windows, or any other openings in such sidewalks, driveways, foundations, walls or floors;

unless fire or explosion as insured against ensues, and then this Company shall be liable for only loss caused by the ensuing fire or explosion; but these exclusions shall not apply to loss arising from theft.

5. volcanic eruption unless direct loss by fire or breakage of glass or safety glazing material ensues. In this event, this Company shall be liable for only the direct loss to the property insured caused by the ensuing fire and if an insured peril, the ensuing breakage of glass or safety glazing material.

Volcanic eruption means the eruption, explosion or effusion of a volcano.

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**D. War Risk And Governmental Action Exclusion:** This policy shall not apply to loss caused, directly or indirectly, by or due to any act or condition incident to the following:

1. hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces; or (b) by military, naval or air forces; or (c) by an agent of any such government, power, authority or forces, it being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority or forces;
2. insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence; seizure or destruction under quarantine or custom's regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade.

**E. Nuclear Clause And Nuclear Exclusion:**

**1. Nuclear Clause (Not Applicable in New York):** The word "fire" in this policy is not intended to and does not embrace nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, and loss by nuclear reaction or nuclear radiation or radioactive contamination is not intended to be and is not insured against by this policy, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by "fire" or any other perils insured against by this policy. However, subject to the foregoing and all provisions of this policy, direct loss by "fire" resulting from nuclear reaction or nuclear radiation or radioactive contamination is insured against by this policy.

**2. Nuclear Clause (Applicable only in New York):** This policy does not cover loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under this policy.

**3. Nuclear Exclusion (Not Applicable in New York):** Loss by nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing is not insured against by this policy, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by any of the perils insured against by this policy; and nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled is not "explosion" or "smoke". This clause applies to all perils insured against hereunder except the peril of fire, which is otherwise provided for in the nuclear clause above.

**2. This policy does not insure under this form against loss caused by:**

**A.** wear and tear, deterioration, rust or corrosion, mold, wet or dry rot; inherent or latent defect; smog; smoke, vapor or gas from agricultural or industrial operations; mechanical breakdown, including rupture or bursting caused by centrifugal force; settling, cracking, shrinkage, bulging or expansion of pavements, foundations, walls, floors, roofs or ceilings; animals, birds, vermin, termites or other insects; unless loss by a peril not otherwise excluded ensues and then this Company shall be liable for only such ensuing loss;

**B.** explosion of steam boilers, steam pipes, steam turbines or steam engines (except direct loss resulting from the explosion of accumulated gases or unconsumed fuel within the firebox, or combustion chamber, of any fired vessel or within the flues or passages which conduct the gases of combustion therefrom) if owned by, leased by or

operated under the control of the named Insured, or for any ensuing loss except by fire or explosion not otherwise excluded, and then this Company shall be liable for only such ensuing loss;

**C.** vandalism, malicious mischief, theft or attempted theft, if the building had been vacant or unoccupied beyond a period of 30 consecutive days immediately preceding the loss, unless loss by a peril not otherwise excluded in this policy ensues, and then this Company shall be liable for only such ensuing loss; nor shall this exclusion be applicable to such unoccupancy as is usual or incidental to the described occupancy;

**D.** leakage or overflow from plumbing, heating, air conditioning or other equipment or appliances (except fire protective systems) caused by or resulting from freezing while the building is vacant or unoccupied, unless the named Insured shall have exercised due diligence with respect to maintaining heat in the buildings or unless such equipment and appliances had been drained and the water supply shut off during such vacancy or unoccupancy;

**E.** theft (including but not limited to burglary and robbery) of any property which at the time of loss is not installed or attached to and made a part of a building or structure (except direct loss by pillage and looting occurring during and at the immediate place of a riot or civil commotion), unless loss by a peril not otherwise excluded in this policy ensues from theft or attempted theft, and then this Company shall be liable for only such ensuing loss;

**F.** unexplained or mysterious disappearance of any property, or shortage disclosed on taking inventory, or caused by any willful or dishonest act or omission of the named Insured or any associate, employee or agent of any Insured; or

**G.** continuous or repeated seepage or leakage of water or steam from within a plumbing, heating or air conditioning system or from within a domestic appliance which occurs over a period of weeks, months or years.

**H.** collapse, except as provided above in the Collapse Additional Coverage. If a peril not otherwise excluded ensues on the described premises, this Company will pay only for loss caused by the ensuing peril.

**3. This policy does not insure under this form against loss occasioned directly or indirectly by any electrical injury or disturbance to electrical appliances, devices, fixtures or wiring caused by electrical currents artificially generated unless fire as insured against ensues, and then this Company shall be liable only for loss caused by the ensuing fire.**

**4. This policy does not insure against loss caused by any of the following. However, any ensuing loss not excluded or excepted in this policy is covered.**

**A.** Weather conditions. However, this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in paragraph 1. above to produce the loss;

**B.** Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body;

**C.** Faulty, inadequate or defective:

1. planning, zoning, development, surveying, siting;

2. design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;

3. materials used in repair, construction, renovation or remodeling; or

4. maintenance;

of part or all of any property on or off the described premises.

## SECTION X—OTHER PROVISIONS

### 1. OTHER INSURANCE:

**A.** If at the time of loss there is other insurance written in the name of the Insured upon the same plan, terms, conditions and provisions as contained in this policy, herein referred to as Contributing Insurance, this Company shall be liable for no greater proportion of any loss than the amount of insurance under this policy bears to the whole amount of insurance covering such loss.

**B.** If at the time of loss there is other insurance other than that as described in A. above, this Company shall not be liable for any loss hereunder until:

(1) the Liability of such other insurance has been exhausted, and

(2) then for only such amount as may exceed the amount due from such other insurance whether collectible or not.

**2. CONTROL OF PROPERTY:** This insurance shall not be prejudiced by any act or neglect of any person (other than the named Insured), when such act or neglect is not within the control of the named Insured.

**3. DIVISIBLE CONTRACT CLAUSE:** If this policy covers two or more buildings, the breach of any condition of the policy in any one or more of the buildings covered or containing the property covered shall not prejudice the right to recover for loss occurring in any building covered or containing the property covered, where at the time of loss a breach of condition does not exist.

**4. INSPECTION OF PROPERTY AND OPERATIONS:** This Company and any person or organization making inspections on this Company's behalf shall be permitted but not obligated to inspect the named Insured's property and operations at any time. Neither the right of this Company and any person or organization to make such inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the named Insured or others, to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule or regulation.

**5. LIBERALIZATION:** If during the period that insurance is in force under this policy, or within 45 days prior to the inception date thereof, on behalf of this Company there be adopted or filed with and approved or accepted by the insurance supervisory authorities, all in conformity with law, any changes in the form attached to this policy by which this form of insurance could be extended or broadened without increased premium charge by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the named Insured hereunder as though such endorsement or substitution of form had been made.

**6. LOSS CLAUSE:** Any loss hereunder shall not reduce the amount of this policy.

**7. MORTGAGE CLAUSE (Not applicable in Minnesota):** (Applies only when policy is made payable to a named mortgagee or trustee.)

Loss or damage, if any, under this policy, shall be payable to the mortgagee (or trustee), named on the first page of this policy, as interest may appear, under all present or future mortgages upon the property herein described in which the aforesaid may have an interest as mortgagee (or trustee) in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee (or trustee) only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the within described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy; provided, that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee (or trustee) shall, on demand, pay the same.

Provided, also, that the mortgagee (or trustee) shall notify this Company of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and, unless permitted by this policy, it shall be noted thereon and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard

for the term of the use thereof; otherwise this policy shall be null and void.

This Company reserves the right to cancel this policy at any time as provided by its terms, but in such case this policy shall continue in force for the benefit only of the mortgagee (or trustee) for 10 days after notice to the mortgagee (or trustee) of such cancellation and shall then cease, and the Company shall have the right, on like notice, to cancel this agreement.

Whenever this Company shall pay the mortgagee (or trustee) any sum for loss under this policy and shall claim that, as to the mortgagor or owner, no liability therefor existed, this Company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of said mortgagee's (or trustee's) claim.

**8. PERMITS AND USE:** Except as otherwise provided, permission is granted:

**A.** to make alterations and repairs;

**B.** for such unoccupancy as is usual or incidental to the described occupancy, but vacancy is limited to the 60 day period permitted by the policy conditions ("Vacant" or "Vacancy" means containing no contents pertaining to operations or activities customary to occupancy of the building, "Unoccupied" or "Unoccupancy" means containing contents pertaining to occupancy of the building while operations or other customary activities are suspended);

**C.** in the event of loss hereunder, to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage, and provided further that the named Insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by any peril not otherwise excluded shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that, in case loss occurs, the named Insured shall protect the property from further damage.

**9. PROTECTIVE SAFEGUARDS:** It is a condition of this insurance that the named Insured shall maintain so far as is within his control such protective safeguards as are set forth by endorsement hereto.

Failure to maintain such protective safeguards shall suspend this insurance, only as respects the location or situation affected, for the time of such discontinuance.

### 10. SUBROGATION:

**A.** In the event of any payment under this policy, this Company shall be subrogated to all the named Insured's rights of recovery against any person or organization and the named Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The named Insured shall do nothing after loss to prejudice such rights.

**B.** This Company shall not be bound to pay any loss if the named Insured has impaired any right of recovery for loss; however, it is agreed that the named Insured may, as respects property while on the premises of the named Insured, release others in writing from liability for loss prior to loss, and such release shall not affect the right of the named Insured to recover hereunder.

**11. NO BENEFIT TO BAILEE:** This insurance shall not inure directly or indirectly to the benefit of any carrier or other bailee.

**12. REPORT TO POLICE:** When either a loss or occurrence takes place, the named Insured shall give notice thereof to the proper police authority if loss or occurrence is due to a violation of law.



1. With respect to the perils of fire or lightning, this policy insures against all loss to the property covered caused by the perils of fire or lightning.

2. The Mortgagee Clause is deleted and the following Loss Payable Clause is substituted:

**LOSS PAYABLE CLAUSE:** If a mortgagee, or mortgagees, is named on the first page of this policy or by endorsement thereto, loss, if any, on real estate is payable to such mortgagee, or mortgagees, as the interests of such mortgagee, or mortgagees, may appear in order of their priority, under any present or future mortgage, or mortgages, of the within described real estate (but in no event to exceed the amount of insurance named in the within policy).

3. Notwithstanding any provision to the contrary of any general or special law:

A. This company shall, before paying any claim for loss or damage to real property from any peril where the amount of the loss payable under this policy equals or exceeds five thousand dollars, first require the insured to submit to this company a certificate of municipal liens from the collector of taxes of the city or town wherein the property is located.

B. This company shall pay to the city or town any amount shown as outstanding on the certificate of municipal liens arising from the provisions of Chapters 40 Power and Duties of Cities and Towns, 59 Assessment of Local Taxes, 60 Taxation, 80 Betterments and 83 Sewers, Drains and Sidewalks of the Massachusetts General Law, to the extent of the amount of loss payable under this policy.

C. The claim of the city or town for such amounts shall have priority over the claim of any insured owner, mortgagee, assignee or other interested party except where otherwise provided by the laws of the United States.

D. This company shall not be liable to any insured owner, mortgagee, assignee, city or town, or other interested party for amounts disbursed to a city or town or for amounts not disbursed to the city or town based upon a certificate indicating the nonexistence of any municipal liens.

E. Paragraphs 3.A, 3.B, 3.C and 3.D above shall not apply to any owner occupied one, two, three or four family dwelling if the owner of said dwelling was domiciled therein at the time the claim for loss or damage arose.

4. This company shall not pay any claim covering:

(a) Any loss, damage, or destruction to a building or other structure, amounting to one thousand dollars or more, or

(b) Any loss, damage, or destruction of any amount, which causes the condition of a building or other structure to become dangerous to life or limb or to become unused, uninhabited or abandoned and open to the weather as provided under Section 6 of Chapter 143 of the Massachusetts General Laws,

without having at least ten days previously, given written notice to the Building Commissioner or the appointed Inspector of Buildings, and to the Board of Health or the Board of Selectmen of the city or town in which the property is located.

If at any time prior to payment the city or town notifies this Company by certified mail of its intent to initiate proceedings designed to perfect a lien pursuant to Massachusetts General Law:

(1) Chapter 143 Public Safety and Good Order

(a) Section 3A—enforcement of State building code as to structures or buildings;

(b) Section 9—penalties for refusal to remove or repair dangerous or abandoned structures or buildings; or

(2) Chapter 111 Public Health

Section 127B—authority of the Board of Health to recondition or demolish the unfitted dwelling for human habitation, premises or structure,

the said payment shall not be made while the said proceedings are pending; provided, however, that the said proceedings are initiated within thirty days of receipt of such notification.

Any lien perfected pursuant to the Massachusetts General Laws referred to in the preceding paragraph shall extend to and may be enforced by the city or town against the proceeds of this policy.

This Company shall not be liable to any insured owner, mortgagee, assignee, city or town, or other interested party for amounts disbursed to a city or town, or for amounts not disbursed to a city or town under the above provisions.

5. The numbered line provisions of this policy are amended by adding the following before the "or" in line 37:

for residential premises of three units or less and thirty (30) consecutive days for all other premises

6. The provisions of the policy pertaining to vacancy or unoccupancy are amended to include the following limitation:

This Company shall not be liable for loss caused by fire or lightning occurring while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty (60) consecutive days for residential premises of three units or less and thirty (30) consecutive days for all other premises.

7. The cancellation provisions of this policy are replaced by the following:

This policy shall be cancelled at any time at the request of the insured, in which case this company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by this company by giving to the insured a five days written notice of cancellation, and to the mortgagee to whom this policy is payable twenty days' written notice of cancellation except where the stated reason for cancellation is nonpayment of premium where, in such instance, this policy may be cancelled at any time by this company by giving to the insured a ten days written notice of cancellation, and the mortgagee a twenty days written notice of cancellation, with or without tender of the excess paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand and shall state or be accompanied by a statement of the specific reason or reasons for such cancellation. After this policy has been in effect for sixty days, or after sixty days from any anniversary date, no notice of cancellation shall be effective unless it is based on the occurrence, after the effective date of the policy, of one or more of the following: (1) nonpayment of premium; (2) conviction of a crime arising out of acts increasing the hazard insured against; (3) discovery of fraud or material misrepresentation by the insured in obtaining the policy; (4) discovery of willful or reckless acts or omissions by the insured increasing the hazard insured against; (5) physical changes in the property insured which result in the property becoming uninsurable; or (6) a determination by the commissioner that continuation of the policy would violate or place the insurer in violation of the law. Where the stated reason is nonpayment of premium, the insured may continue the coverage and avoid the effect of the cancellation by payment at any time prior to the effective date of cancellation.



## MASSACHUSETTS AMENDATORY ENDORSEMENT

CF 01 09  
(Ed. 06 82)

8. The provisions of the policy pertaining to requirements in case of loss or damage are replaced by the following:

The insured shall give immediate written notice to this company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed and damaged property, showing in detail the quantity, description, actual cash value and amount of loss claimed; and the insured shall forthwith render to this company a signed, sworn statement in proof of loss which sets forth to the best knowledge and belief of the insured the following: the time and cause of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes

in the title, use, occupancy, location, possession or exposures of said property, since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and detailed estimates for repair of the damage. The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and submit to examinations under oath by any person named by this company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made.

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EPA0180



**EFFECTIVE TIME ENDORSEMENT**

The time of inception and the time of expiration of this policy and of any schedule or endorsement attached shall be 12:01 a.m. standard time. To the extent that coverage in this policy replaces coverage in other policies terminating noon standard time on the inception date of this policy, coverage under this policy shall not become effective until such other coverage has terminated.

EPA0181

0097-0284



**DEDUCTIBLE CLAUSE No. 1**  
(Maximum \$3,000 Deductible)

**CF 03 46**  
(Ed. 05 77)

<b>COMPANY</b> United States Fidelity & Guaranty Co.	<b>POLICY NO.</b> MP 064063384	<b>AGENCY</b> Edward G. Boyle Ins.
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1. This Company shall be liable only when the whole loss exceeds \$ 1,000. and then for only the amount of such excess, but, in the event there is any other insurance covering the property (or which would have covered the property except for the existence of this insurance) against the peril(s) which caused the loss (whether collectible or not), then this Company shall be liable for only its proportion of the amount of such excess. Such proportion shall be determined in the same manner as this Company's proportion of the whole loss would be determined.
2. The "whole loss" as used herein is defined as the amount which would be recoverable under this policy and any other insurance covering the property (or which would have covered the property except for the existence of this insurance), against the peril(s) which caused the loss (whether collectible or not), in any one occurrence, disregarding this deductible clause and any other deductible provisions in this policy or in such other insurance policies.
3. If this policy covers on two or more items of insurance, the provisions of this deductible clause shall apply separately to each item to which this deductible clause applies.
4. The provisions of this deductible clause shall supersede any other deductible provisions in the policy to which this deductible clause is attached, except, if this policy insures against loss by earthquake, the provisions of this deductible clause shall not apply to the amount of such loss recoverable under this policy.

**THIS CLAUSE VOID**

This Endorsement must be attached to Change Endorsement when issued after the Policy is written.

**CF 03 46** (Ed. 05 77)

**AMENDATORY ENDORSEMENT  
PREJUDGMENT INTEREST**

The following is added to the Supplementary Payments provision in this policy:

The Company will pay, in addition to the applicable limit of liability, prejudgment interest awarded against the **Insured** on that part of the judgment the Company pays. If the Company makes an offer to pay the applicable limit of its liability, the Company will not pay any prejudgment interest based on that period of time after the offer.

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## AMENDATORY ENDORSEMENT

In consideration of the premium charged, this endorsement is made a part of this policy.

### 1. Personal Property of the Insured:

The following words are deleted from the Coverage B—Personal Property of the Insured definition:

“usual to the occupancy of the named Insured”.

### 2. Subrogation:

The following clause is substituted for the Subrogation Clause:

**Subrogation Waiver Clause:** This insurance shall not be invalidated should the Insured waive in writing any or all right of recovery against any party for loss. Provided, however, that in the event the Insured waives only a part of his rights against any particular third party, this Company shall be subrogated with respect to all rights of recovery which the Insured may retain against any such third party for loss from the perils insured against to the extent that payment therefor is made by this Company; all subject to the following additional provisions:

- (a) If made before loss has occurred, such agreement may run in favor of any third party;
- (b) If made after loss has occurred, such agreement may run only in favor of a third party falling within one of the following categories at the time of loss:
  - (1) A third party insured under this policy; or
  - (2) A corporation, firm, or entity (a) owned or controlled by the named Insured or in which the named Insured owns capital stock or other proprietary interest, or (b) owning or controlling the named Insured or owning or controlling capital stock or other proprietary interest in the named Insured; or
  - (3) A tenant of the named Insured.

### 3. Permits and Use:

The following clause is substituted for the Permits and Use Clause:

**Permits and Use:** Except as otherwise provided, permission is granted:

- A. To make additions, alterations and repairs. This policy, insofar as it covers building(s) or structure(s), is extended to cover additions, alterations and repairs, when not otherwise covered by insurance, including temporary structures constructed on site, materials, equipment and supplies therefor on or within 100 feet of the described premises; and this policy, insofar as it covers contents, is extended to cover in such additions. This provision does not waive or modify any of the conditions of the Automatic Sprinkler Clause, if any, attached to this policy.
- B. For such unoccupancy as is usual or incidental to the described occupancy (“unoccupied” or “unoccupancy” means containing contents

pertaining to the occupancy of the building while operations or other customary activities are suspended).

- C. For the described building(s) to be vacant without limit of time, subject to a 15% reduction in the amount of loss payment otherwise due under this policy while the involved building(s) is vacant beyond a period of 60 consecutive days. This penalty will not be applicable during the period of any extension whereby the 60 day period is extended by endorsement.

(“Vacant” or “Vacancy” means containing no contents pertaining to operations or activities customary to occupancy of the building. A building in the course of construction shall not be considered vacant.)

These provisions do not apply to the perils of vandalism or malicious mischief or sprinkler leakage.

- D. For increased hazards and for change in use or occupancy.
- E. Without prejudice to this insurance, for there to be errors in stating the name, number, street or location of any building(s) covered hereunder, or of building(s) and personal property if covered under a single item of insurance, where there is no wilful concealment or misrepresentation.
- F. In the event of loss hereunder, to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage, and provided further that the named Insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by any peril insured hereunder shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that, in case loss occurs, the named Insured shall protect the property from further damage.

### 4. Extensions of Coverage:

In the General Property Form, the following is substituted for the first paragraph under Section III—Extensions of Coverage, Item 3. Newly Acquired Property:

#### Newly Acquired Property

- A. The named Insured may apply up to 25% of the amount of insurance for Coverage A—Building(s) to cover direct loss by a peril insured against to the following described property:

In the Special Building Form, the following words are deleted from Item A. Newly Acquired Property under Section IV—Extensions of Coverage:

“but not exceeding \$ 100,000”

## SPECIAL PERSONAL PROPERTY FORM

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(Ed. 10 83)

This form cancels and replaces any coverage on personal property provided under any other form made a part of this policy, but only with respect to personal property to which this form is shown to be applicable.

Insurance applies only to item(s) specifically described in this policy for which an amount of insurance is shown and, unless otherwise provided all provisions and stipulations of this form and policy shall apply separately to each such item.

### SECTION I—PROPERTY COVERED

When insurance under this policy covers "Personal Property of the Insured" or "Personal Property of Others", such insurance shall cover in accordance with the following description(s) of coverage.

**COVERAGE B—PERSONAL PROPERTY OF THE INSURED:** Business personal property owned by the named Insured and usual to the occupancy of the named Insured, including the named Insured's interest in personal property owned by others to the extent of the value of labor, materials and charges furnished, performed or incurred by the named Insured; all while (1) in or on the described building(s), or (2) in the open (including within vehicles) on or within 100 feet of the described premises.

This coverage shall also include Tenant's Improvements and Betterments when not otherwise specifically covered. Tenant's Improvements and Betterments means the named Insured's use interest in fixtures, alterations, installations or additions constituting a part of the building(s) occupied but not owned by the named Insured and made or acquired at the expense of the named Insured exclusive of rent paid by the named Insured, but which are not legally subject to removal by the named Insured.

**COVERAGE C—PERSONAL PROPERTY OF OTHERS:** This insurance shall cover for the account of the owner(s) (other than the named Insured) personal property belonging to others in the care, custody or control of the named Insured, while (1) in or on the described building(s), or (2) in the open (including within vehicles) on or within 100 feet of the described premises.

Loss shall be adjusted with the named Insured for the account of the owners of the property, except that the right to adjust any loss with the owners is reserved to this Company and the receipts of the owners in satisfaction thereof shall be in full satisfaction of any claim by the named Insured for which payments have been made.

**DEBRIS REMOVAL:** This policy covers expense incurred in the removal of debris of the property covered which may be occasioned by loss by a peril not excluded. The total amount recoverable under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying to the described property.

### SECTION II—ADDITIONAL COVERAGE

**COLLAPSE—**This policy insures against risk of direct physical loss involving collapse of a building or any part of a building caused only by one or more of the following:

- a. fire; lightning; windstorm; hail; explosion; smoke; aircraft; vehicles; riot; civil commotion; vandalism or malicious mischief; breakage of glass; falling objects; weight of snow, ice or sleet; water damage; all only as insured against in this policy;
- b. hidden decay;
- c. hidden insect or vermin damage;
- d. weight of people or personal property;
- e. weight of rain which collects on a roof;
- f. use of defective material or methods in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation.

This Company shall not be liable for loss to the following types of property, if otherwise covered in this policy, under items b., c., d., e. and f. unless the loss is a direct result of the collapse of a building:

outdoor radio or television antennas, including their lead-in wiring, masts or towers; awnings; gutters and downspouts; yard fixtures; outdoor swimming pools; fences; piers, wharves and docks; beach or diving platforms or appurtenances; retaining walls; walks, roadways and other paved surfaces.

Collapse does not include settling, cracking, shrinkage, bulging or expansion.

This Additional Coverage does not increase the amount(s) of insurance provided in this policy.

### SECTION III—PROPERTY NOT COVERED

This policy does not cover:

**A.** Property sold by the named Insured under conditional sale, trust agreement, installment payment or other deferred payment plan, after delivery to customers.

**B.** Aircraft, watercraft, including motors, equipment and accessories (except rowboats and canoes, while out of water and on the described premises); and automobiles, trailers, semi-trailers or any self-propelled vehicles or machines, except such property not licensed for use on public thoroughfares and operated principally on the premises of the named Insured.

This provision does not apply to the following types of property when held for sale or sold but not delivered:

1. Watercraft (including motors, equipment and accessories) while not afloat;
2. Motorcycles, motorscooters and snowmobiles; or
3. Trailers designed for use with private passenger vehicles for general utility purposes or carrying boats.

This provision does not apply to the following types of property when manufactured, processed or warehoused by the named Insured:

1. Aircraft;
2. Watercraft, including motors, equipment and accessories, while not afloat; or
3. Automobiles, trailers, semi-trailers or any self-propelled vehicles or machines.

**C.** Personal property while waterborne.

**D.** Household and personal effects contained in living quarters occupied by the named Insured, any officer, director, stockholder or partner of the named Insured or relatives of any of the foregoing, except as provided in the Extensions of Coverage.

**E.** Accounts, bills, currency, deeds, evidences of debt, money and securities.

**F.** Outdoor signs, whether or not attached to a building or structure.

**G.** Growing crops and lawns.

**H.** Property which is more specifically covered in whole or in part by this or any other contract of insurance, except for the amount of loss which is in excess of the amount due from such more specific insurance.

### SECTION IV—PROPERTY SUBJECT TO LIMITATIONS

The following property is subject to these additional limitations:

1. Except for loss caused by the "specified perils":

(a) Fur and fur garments are covered for not exceeding loss in the aggregate of \$2,500 in any one occurrence for all contributing insurance

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(b) Jewelry and watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver, platinum and other precious alloys or metals are covered for not exceeding loss in the aggregate of \$2,500 in any one occurrence for all contributing insurance. This limitation shall not apply to jewelry and watches valued at \$50 or less per item.

(c) Patterns, dies molds, models and forms are covered for not exceeding loss in the aggregate of \$2,500 in any one occurrence for all contributing insurance.

(d) Stamps, tickets and letters or credit are covered for not exceeding loss in the aggregate of \$250 in any one occurrence for all contributing insurance.

2. Valuable papers and records meaning computer programs and books of account, manuscripts, abstracts, drawings, card index systems and other records including film, tape, disc, drum, cell and other magnetic recording or storage media for electronic data processing, are covered only against loss caused by the "specified perils".

3. Animals and pets are not covered, except when held for sale or sold but not delivered, and then only against death or destruction directly resulting from or made necessary by the "specified perils".

4. Outdoor trees, shrubs and plants are not covered, except: (a) when held for sale or sold but not delivered, and then only against direct loss by the "specified perils", or (b) as provided in the Extensions of Coverage.

5. Glass, glassware, statuary, marbles, bric-a-brac, porcelains and other articles of a fragile or brittle nature are covered against loss by breakage only if directly caused by the "specified perils". This limitation shall not apply to bottles or similar containers of property for sale, or sold but not delivered, nor to lenses of photographic or scientific instruments.

6. Steam boilers, steam pipes, steam turbines and steam engines are not covered against loss caused by bursting, rupture, cracking or explosion originating therein (other than explosion of accumulated gases or unconsumed fuel within a fire box or combustion chamber).

7. Machines and machinery are not covered against loss caused by rupture, bursting or disintegration of their rotating or moving parts resulting from centrifugal or reciprocating force.

The term "specified perils" shall mean direct loss by fire, lightning, aircraft, explosion, riot, civil commotion, smoke, vehicles, windstorm or hail to property contained in any building, vandalism, malicious mischief and leakage or accidental discharge from automatic fire protective systems.

## SECTION V—EXTENSIONS OF COVERAGE

Each of the limits of liability specified for the following Extensions of Coverage applies as an additional amount of insurance. The Coinsurance Clause shall not apply to loss under the Extensions of Coverage.

The total amount recoverable under the Extensions of Coverage in this form and Extensions of Coverage in any other form made a part of this policy are not cumulative and shall not exceed the largest amount recoverable under any single form made a part of this policy.

When, in accordance with the Other Insurance condition, there is Contributing Insurance, this Company shall not be liable for more than its pro rata share of the limits set forth in the following Extensions of Coverage.

**A. Property at Newly Acquired Locations:** The named Insured may apply up to 10% of the amount of insurance specified for Personal Property of the Insured but not exceeding \$10,000, to cover direct loss in any one occurrence by a peril not otherwise excluded to such property at any location (except fairs and exhibitions) acquired by the named Insured for similar occupancies or warehousing purposes, elsewhere than at the described premises within or between the fifty states of the United States of America, the District of Columbia and Puerto Rico. This coverage shall cease 30 days from the date of such acquisition or on the date values at such locations are reported to this Company, or on the expiration date of the policy, whichever occurs first. Additional premium shall be due and payable for values so reported from the date the property is acquired.

**B. Personal Effects:** The named Insured may apply up to \$500 to cover direct loss in any one occurrence by the perils not otherwise excluded to personal effects while located on the described premises, belonging to the named Insured, officers, partners or employees thereof, and limited to \$100 on personal effects owned by any one individual. This Extension of Coverage does not apply if the loss is covered by any other insurance, whether collectible or not, or which would have been covered by such other insurance in the absence of this policy. At the option of this Company, loss under this Extension of Coverage may be adjusted with and payable to the named Insured.

**C. Valuable Papers and Records:** The named Insured may apply up to \$500 to cover direct loss in any one occurrence by a peril not otherwise excluded to valuable papers and records consisting of computer programs and books of account, manuscripts, abstracts, drawings, card index systems, film, tape, disc, drum, cell and other magnetic recording or storage media for electronic data processing and other records, all the property of the named Insured at the described premises. This Extension of Coverage covers only the cost of research and other expense necessarily incurred by the named Insured to reproduce, replace or restore such valuable papers and records. The total amount payable in any one occurrence under this Extension of Coverage shall not exceed the limit specified above, regardless of the number of described locations.

**D. Outdoor Trees, Shrubs and Plants:** The named Insured may apply up to \$1,000 to cover outdoor trees, shrubs and plants at the described premises against direct loss in any one occurrence by the perils of fire,

lightning, explosion, riot, civil commotion or aircraft, but only to the extent such perils are insured against herein. This Company shall not be liable for more than \$250 on any one tree, shrub or plant, including expense incurred for removing debris thereof.

**E. Extra Expense:** The named Insured may apply up to \$1,000 to cover the necessary extra expense incurred by the named Insured in order to continue as nearly as practicable the normal operations of the named Insured's business immediately following damage by a peril not otherwise excluded under this form to the buildings or personal property situated at the described premises

"Extra expense" means the excess of the total cost incurred during the period of restoration chargeable to the operations of the named Insured's business over and above the total cost that would normally have been incurred to conduct the business during the same period had no loss occurred. Any salvage value of property obtained for temporary use during the period of restoration, which remains after the resumption of normal operations, shall be taken into consideration in the adjustment of any loss hereunder.

"Period of restoration" means that period of time, commencing with the date of damage and not limited by the date of expiration of this policy, as would be required with the exercise of due diligence and dispatch to repair, rebuild, or replace such part of said buildings or personal property as have been damaged.

This Company shall not be liable under this Extension of Coverage for:

1. loss of income;
2. the cost of repairing or replacing any of the described property, or the cost of research or other expense necessary to replace or restore computer programs and books of account, manuscripts, abstracts, drawings, card index systems, film, tape, disc, drum, cell and other magnetic recording or storage media for electronic data processing, and other records that have been damaged by a peril not otherwise excluded, except cost in excess of the normal cost of such repair, replacement or restoration necessarily incurred for the purpose of reducing the total amount of extra expense. In no event shall such excess exceed the amount by which the total extra expense otherwise payable under this Extension of Coverage is reduced; or

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3. any other consequential or remote loss.

**F. Damage to Buildings from Theft, Burglary or Robbery:** This policy includes loss (except by fire or explosion) to that part of the building occupied by the named Insured and containing property covered, and to equipment therein pertaining to the service of the building but not building property or equipment removed from premises, directly resulting from theft, burglary or robbery (including attempt thereat), provided the named Insured is the owner of such building or equipment or is liable for such damage, but in no event shall this coverage apply to glass (other than glass building blocks) or to any lettering or ornamentation thereon.

**G. Transportation:** The named Insured may apply up to \$1,000 to cover insured personal property (other than property in the care, custody or control of salesmen) during transportation by motor vehicles owned, leased or operated by the named Insured for loss in any one occurrence caused by:

1. fire, lightning, windstorm, hail, explosion, smoke, riot, riot attending a strike, civil commotion, vandalism or malicious mischief; or
2. collision, overturning or upset of the vehicle; meaning thereby the violent and accidental contact of the vehicle conveying the property described herein with any other vehicle or object excluding any loss or damage done by coming in contact with any portion of the road bed or by means other than as expressly indicated; or
3. theft of an entire shipping bale, case or package from a vehicle while such property is contained in a fully enclosed and securely locked body or compartment and theft results from forcible entry, evidenced by visible marks upon such body or compartment.

The Extension of Coverage covers the above described property while in transit within or between the fifty states of the United States of America, the District of Columbia and Puerto Rico.

**H. Non-Owned Personal Property:** The named Insured may apply at each location up to 2% of the amount of insurance specified for Personal Property of the named Insured at such location, but not exceeding \$2,000, to cover for the account of the owners thereof (other than the named Insured) direct loss by a peril not otherwise excluded to personal property, similar to that covered by this policy, belonging to others while in the care, custody or control of the named Insured and while (1) in or on the described building(s), or (2) in the open (including within vehicles) or within 100 feet of the described premises.

Loss shall be adjusted with the named Insured for the account of the owners of the property, except that the right to adjust any loss with the owners is reserved to this Company and the receipts of the owners in satisfaction thereof shall be in full satisfaction of any claim by the named Insured for which payments have been made. As respects personal property belonging to others, this provision shall replace any loss payable provision of this policy.

**I. Off-Premises:** The named Insured may apply up to 2% but not exceeding \$5,000 nor less than \$1,000, of the amount of insurance for Coverage B—Personal Property of the Insured at a described location, to cover direct loss by a peril not otherwise excluded to such property, other than merchandise or stock (raw, in process, or finished), owned by the named Insured.

This Extension of Coverage shall not apply: (a) to loss by theft; (b) to property in transit nor to property on any premises owned, leased, operated or controlled by the named Insured; (c) except as excess over the amount due from any other insurance covering the property, whether collectible or not

## SECTION VI—PERILS INSURED AGAINST

This policy insures against risks of direct physical loss unless the loss is excluded in Section VII—Exclusions below subject to the provisions and stipulations herein and in the policy of which this form is made a part.

## SECTION VII—EXCLUSIONS

1. This policy does not insure against loss caused directly or indirectly by any of the following. Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss

**A.** Loss occasioned directly or indirectly by enforcement of any ordinance or law regulating the use, construction, or demolition of property, including debris removal expense;

**B.** Loss caused directly or indirectly by the interruption of power or other utility service furnished to the described premises if the interruption takes place away from the described premises. If a peril not otherwise excluded ensues on the described premises, this Company will pay only for loss caused by the ensuing peril.

**C.** Loss caused by, resulting from, contributed to or aggravated by any of the following:

1. earth movement, including but not limited to earthquake, landslide, mudflow, earth sinking, earth rising or shifting;
2. flood, surface water, waves, tidal water or tidal waves, overflow of streams or other bodies of water, or spray from any of the foregoing, all whether driven by wind or not;
3. water which backs up through sewers or drains; or
4. water below the surface of the ground including that which exerts pressure on or flows, seeps or leaks through sidewalks, driveways, foundations, walls, basement or other floors, or through doors, windows or any other openings in such sidewalks, driveways, foundations, walls or floors;

unless fire or explosion as insured against ensues, and then this Company shall be liable for only loss caused by the ensuing fire or

*explosion; but these exclusions shall not apply to loss arising from theft.*

**5.** volcanic eruption unless direct loss by fire or breakage of glass or safety glazing material ensues. In this event, this Company shall be liable for only the direct loss to the property insured caused by the ensuing fire and if an insured peril, the ensuing breakage of glass or safety glazing material.

Volcanic eruption means the eruption, explosion or effusion of a volcano.

**D. War Risk And Governmental Action Exclusions:** This policy shall not apply to loss caused, directly or indirectly, by or due to any act or condition incident to the following:

1. hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces; or (b) by military naval or air forces; or (c) by an agent of such government, power, authority or forces, it being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority or forces;

2. insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence; seizure or destruction under quarantine or custom's regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade.

**E. Nuclear Clause And Nuclear Exclusion:**

**1. Nuclear Clause (Not Applicable in New York):** The word "fire" in this policy is not intended to and does not embrace nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, and loss by nuclear reaction or nuclear radiation or radioactive contamination is not intended to be and is not insured against by this policy, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to or aggravated by "fire" or any other perils insured against by this policy. However, subject to the foregoing and all provisions of this policy, direct loss by "fire" resulting from nuclear reaction or nuclear radiation or radioactive contamination is insured against by this policy.

**2. Nuclear Clause (Applicable only in New York):** This policy does not cover loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under this policy.

**3. Nuclear Exclusion (Not Applicable in New York):** Loss by nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing is not insured against by this policy, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by any of the perils insured against by this policy, and nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, is not "explosion" or "smoke". This clause applies to all perils insured against hereunder except the peril of fire, which is otherwise provided for in the nuclear clause above.

**2. This policy does not insure under this form against loss caused by**

**A.** unexplained or mysterious disappearance of property, or shortage of property disclosed on taking inventory;

**B.** actual work upon, installation or testing of property covered, failure, breakdown or derangement of machines or machinery unless loss by fire or explosion not otherwise excluded ensues and then this Company shall be liable for only such ensuing loss.

**C.** any electrical injury or disturbance to electrical appliances, devices, fixtures or wiring caused by electrical currents artificially generated unless fire as insured against ensues, and then this Company shall be liable for only loss caused by the ensuing fire.

**D.** leakage or overflow from plumbing, heating, air conditioning or other equipment or appliances (except fire protective systems) caused by or resulting from freezing while the described building is vacant or unoccupied, unless the named Insured shall have exercised due diligence with respect to maintaining heat in the buildings or unless such equipment and appliances had been drained and the water supply shut off during such vacancy or unoccupancy.

**E.** delay, loss of market, interruption of business, or consequential loss of any nature:

- F. 1.** wear and tear, marring or scratching;
- 2.** deterioration, inherent vice, latent defect;
- 3.** rust, mold, wet or dry rot, contamination;
- 4.** dampness or dryness of atmosphere, changes in or extremes of temperature;
- 5.** smog, smoke from agricultural smudging or industrial operations; or

**6.** birds, vermin, rodents, insects or animals;

unless loss by fire, smoke (other than smoke from agricultural smudging or industrial operations), explosion, collapse of a building, glass breakage or water not otherwise excluded ensues, then this policy shall cover only such ensuing loss.

If loss by water not otherwise excluded ensues, this policy shall also cover the cost of tearing out and replacing of any part of the building covered required to effect repairs to the plumbing, heating or air conditioning system or domestic appliance but excluding loss to the system or appliance from which the water escapes;

**G.** explosion of steam boilers, steam pipes, steam turbines or steam engines (except direct loss resulting from the explosion of accumulated gases or unconsumed fuel within the firebox, or combustion chamber, of any fired vessel or within the flues or passages which conduct the gases of combustion therefrom) if owned by, leased by or operated under the control of the named Insured or for any ensuing loss except by fire or explosion not otherwise excluded, and then this Company shall be liable for only such ensuing loss;

**H.** voluntary parting with title or possession of any property by the named Insured or others to whom the property may be entrusted if induced to do so by any fraudulent scheme, trick, device or false pretense:

**I.** any fraudulent, dishonest or criminal act done by or at the instigation of any Insured, partner or joint adventurer in or of any Insured, an officer, director or trustee of any Insured; pilferage, appropriation or concealment of any property covered due to any fraudulent, dishonest or criminal act of any employee while working or otherwise, or agent of any Insured, or any person to whom the property covered may be entrusted.

**J.** continuous or repeated seepage or leakage of water or steam from within a plumbing, heating or air conditioning system or from within a domestic appliance which occurs over a period of weeks, months or years, or

**K.** rain, snow, or sleet to property in the open.

**L.** collapse, except as provided above in the Collapse Additional Coverage. If a peril not otherwise excluded ensues on the described premises, this Company will pay only for loss caused by the ensuing peril

**3. This policy does not insure against loss caused by any of the following. However, any ensuing loss not excluded or excepted in this policy is covered**

**A.** Weather conditions. However, this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in paragraph 1. above to produce the loss.

**B.** Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

**C.** Faulty, inadequate or defective:

- 1.** planning, zoning, development, surveying, siting;
- 2.** design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- 3.** materials used in repair, construction, renovation or remodeling, or
- 4.** maintenance.

of part or all of any property on or off the described premises.

## SECTION VIII—VALUATION

The following bases are established for valuation of property:

- A. The value of all stock actually sold but not delivered shall be the price at which it was sold, less all discounts and unincurred expenses.
- B. Tenants' Improvements and Betterments:
  1. If repaired or replaced at the expense of the named Insured within a reasonable time after loss, the actual cash value of the damaged or destroyed improvements and betterments.
  2. If not repaired or replaced within a reasonable time after loss, that proportion of the original cost at time of installation of the damaged or destroyed property which the unexpired term of the lease or rental agreement, whether written or oral, in effect at the time of loss bears to the periods from the dates such improvements or betterments were made to the expiration date of the lease.
  3. If repaired or replaced at the expense of others for the use of the named Insured, there shall be no liability hereunder.

C. Valuable Papers and Records:

1. Books of account, manuscripts, abstracts, drawings, card index systems and other records (except film, tape, disc, drum, cell and other magnetic recording or storage media for electronic data processing) for not exceeding the cost of blank books, cards or other blank material plus the cost of labor incurred by the named Insured for transcribing or copying such records.
2. Film, tape, disc, drum, cell and other magnetic recording or storage media for electronic data processing for not exceeding the cost of such media in unexposed or blank form.
3. Computer programs for not exceeding the cost of labor incurred by the named Insured for transcribing or copying such programs.
- D. All other property at actual cash value at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, nor in any event for more than the interest of the named Insured.

## SECTION IX—COINSURANCE CLAUSE

This Company shall not be liable for a greater proportion of any loss to the property covered than the amount of insurance under this policy for such property bears to the amount produced by multiplying the actual cash value of such property at the time of the loss by the coinsurance percentage applicable (specified on the first page of the policy, or by endorsement).

In the event that the aggregate claim for any loss is both less than \$10,000 and less than 5% of the total amount of insurance applicable to

the property involved at the time such loss occurs, no special inventory or appraisal of the undamaged property shall be required, providing that nothing herein shall be construed to waive the application of the first paragraph of this clause.

The value of property covered under Extensions of Coverage, and the cost of the removal of debris, shall not be considered in the determination of actual cash value when applying the Coinsurance Clause.

## SECTION X—DEDUCTIBLE CLAUSE

The sum of \$100 shall be deducted from the amount of loss to property in any one occurrence resulting from any of the perils insured against. This deductible shall apply separately to personal property in each

building and separately to personal property in the open (including within vehicles). The aggregate amount of this deductible in any one occurrence shall not exceed \$1,000.

## SECTION XI—OTHER PROVISIONS

### 1. OTHER INSURANCE:

(a) If at the time of loss there is other insurance written in the name of the Insured upon the same plan, terms, conditions and provisions as contained in this policy, herein referred to as Contributing Insurance, this Company shall be liable for no greater proportion of any loss than the amount of insurance under this policy bears to the whole amount of insurance covering such loss.

(b) If at the time of loss there is other insurance other than that as described in (a) above, this Company shall not be liable for any loss hereunder until:

- (1) the liability of such other insurance has been exhausted, and
- (2) then for only such amount as may exceed the amount due from such other insurance, whether collectible or not.

2. **CONTROL OF PROPERTY.** This insurance shall not be prejudiced by any act or neglect of any person (other than the named Insured), when such act or neglect is not within the control of the named Insured.

3. **DIVISIBLE CONTRACT CLAUSE:** If this policy covers personal property in two or more buildings, the breach of any condition of the policy in any one or more of the buildings containing the property covered shall not prejudice the right to recover for loss occurring in any building containing the property covered, where at the time of loss a breach of condition does not exist.

4. **INSPECTION OF PROPERTY AND OPERATIONS:** This Company and any person or organization making inspections on this Company's behalf shall be permitted but not obligated to inspect the named In-

sured's property and operations at any time. Neither the right of this Company and any person or organization to make such inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the named Insured or others, to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule or regulation.

5. **LIBERALIZATION:** If during the period that insurance is in force under this policy, or within 45 days prior to the inception date thereof, on behalf of this Company there be adopted or filed with and approved or accepted by the insurance supervisory authorities, all in conformity with law, any changes in the form attached to this policy by which this form of insurance could be extended or broadened without increased premium charge by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the named Insured hereunder as though such endorsement or substitution of form had been made.

6. **LOSS CLAUSE:** Any loss hereunder shall not reduce the amount of this policy.

7. **PERMITS AND USE:** Except as otherwise provided, permission is granted:

A. to make alterations and repairs.

B. for such unoccupancy as is usual or incidental to the described occupancy; but vacancy is limited to the 60 day period permitted by the policy conditions ("Vacant" or "Vacancy" means containing no contents pertaining to operations or activities customary to occupancy of the building; "Unoccupied" or "Unoccupancy" means containing contents pertaining to occupancy of the building while operations or other customary activities are suspended);

C. in the event of loss hereunder, to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage, and provided further that the named Insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by any peril not excluded hereunder shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that, in case loss occurs, the named Insured shall protect the property from further damage.

**8. PROTECTIVE SAFEGUARDS:** It is a condition of this insurance that the named Insured shall maintain so far as is within his control such protective safeguards as are set forth by endorsement hereto.

Failure to maintain such protective safeguards shall suspend this insurance, only as respects the location or situation affected, for the time of such discontinuance.

**9. SUBROGATION:**

A. In the event of any payment under this policy, this Company shall be subrogated to all the named Insured's rights of recovery against

any person or organization and the named Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The named Insured shall do nothing after loss to prejudice such rights.

B. This Company shall not be bound to pay any loss if the named Insured has impaired any right of recovery for loss; however, it is agreed that the named Insured may:

1. as respects property while on the premises of the named Insured, release others in writing from liability for loss prior to loss, and such release shall not affect the right of the named Insured to recover hereunder, and

2. as respects property in transit, accept such bills of lading, receipts or contracts of transportation as are ordinarily issued by carriers containing a limitation as to the value of such goods or merchandise.

**10. NO BENEFIT TO BAILEE:** This insurance shall not inure directly or indirectly to the benefit of any carrier or other bailee.

**11. REPORT TO POLICE:** When either a loss or occurrence takes place, the named Insured shall give notice thereof to the proper police authority if loss or occurrence is due to a violation of a law.

**ATTACH FORMS FOR PRECEDING DIVISION**

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# MASTER INSURANCE POLICY

## DIVISION II LIABILITY COVERAGE

Forming part of Policy No. MP <u>064063384</u> Previous Policy No. <u>MP 47601</u>	Branch Office and Agent Boston, MA Edward G. Boyle Ins. Agency, Inc. Woburn, MA 01801 1-07-4323
Issued By <u>United States Fidelity And Guaranty Company</u> <small>(Company)</small>	
Named Insured and P. O. Address (No., Street, Town, County, State, Zip Code) <u>Clifford C. &amp; Grace E. Boutwell dba Aberjona Auto Parts</u> <u>278 Salem Street</u> <u>Woburn, MA 01801</u>	
Policy Term: <u>1</u> Years	<u>8/1/85</u> Inception (Mo. Day Yr.) <u>8/1/86</u> Expiration (Mo. Day Yr.)
<small>12:00 Noon, standard time at the address of the Named Insured as stated herein.</small>	

### DECLARATIONS

Business of the Named Insured is Auto Parts Store

The Named Insured is:     Individual     Partnership     Corporation     Joint Venture     Other (specify)

The insurance afforded is only with respect to such of the following Coverage Parts and Coverages as are indicated by a limit of liability. The limit of the Company's liability against each such Coverage shall be as stated herein, subject to all the terms of this policy having reference thereto.

COVERAGE PARTS	COVERAGES	LIMITS OF LIABILITY	ADVANCE PREMIUMS
Comprehensive - General Liability Insurance	A. Bodily Injury Liability	\$ 500,000 each occurrence \$ 500,000 aggregate	\$ Incl.
	B. Property Damage Liability	\$ 100,000 each occurrence \$ 100,000 aggregate	\$ Incl.
Premises Medical Payments Insurance	E. Premises Medical Payments	\$ each person \$ ,000 each accident	\$
Contractual Liability Insurance	See Coverage Part for Coverages and Limits of Liability		\$
			\$
			\$
			\$
			\$
			\$

Form numbers of endorsements applicable to this Division at issuance (other than those entered on Coverage Parts):

GL 0100, GL 0114, CAS.95, GL 0404, GL 0032, GLC 2103

Audit Period: Annual, unless otherwise designated below.

Semi-annually     Quarterly     Monthly

Total Advance Premium    \$ Incl.

am 3-19-86

# MASTER INSURANCE POLICY

## DIVISION II—LIABILITY COVERAGE

In consideration of the payment of the premium, in reliance upon the statements in the declarations made a part hereof and subject to all of the terms of this policy, the Company agrees with the Named Insured as follows:

### DEFINITIONS

When used in this policy (including endorsements forming a part hereof):

**"automobile"** means a land motor vehicle, trailer or semi-trailer designed for travel on public roads (including any machinery or apparatus attached thereto), but does not include **mobile equipment**;

**"bodily injury"** means bodily injury, sickness or disease sustained by any person which occurs during the policy period, including death at any time resulting therefrom.

**"completed operations hazard"** includes **bodily injury** and **property damage** arising out of operations or reliance upon a representation or warranty made at any time with respect thereto, but only if the **bodily injury** or **property damage** occurs after such operations have been completed or abandoned and occurs away from premises owned by or rented to the **Named Insured**. "Operations" include materials, parts or equipment furnished in connection therewith. Operations shall be deemed completed at the earliest of the following times:

- (1) when all operations to be performed by or on behalf of the **Named Insured** under the contract have been completed,
- (2) when all operations to be performed by or on behalf of the **Named Insured** at the site of the operations have been completed, or
- (3) when the portion of the 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.

Operations which may require further service or maintenance work, or correction, repair or replacement because of any defect or deficiency, but which are otherwise complete, shall be deemed completed.

The **completed operations hazard** does not include **bodily injury** or **property damage** arising out of

- (a) operations in connection with the transportation of property, unless the **bodily injury** or **property damage** arises out of a condition in or on a vehicle created by the loading or unloading thereof.
- (b) the existence of tools, uninstalled equipment or abandoned or unused materials, or
- (c) operations for which the classification stated in the policy or in the Company's manual specifies "including completed operations";

**"elevator"** means any hoisting or lowering device to connect floors or landings whether or not in service, and all appliances thereof including any car, platform, shaft, hoistway, stairway, runway, power equipment and machinery; but does not include an **automobile** servicing hoist, or a hoist without a platform outside a building if without mechanical power or if not attached to building walls, or a hod or material hoist used in alteration, construction or demolition operations, or an inclined conveyor used exclusively for carrying property or a dumbwaiter used exclusively for carrying property and having a compartment height not exceeding four feet;

**"incidental contract"** means any written (1) lease of premises, (2) easement agreement, except in connection with construction or demolition operations on or adjacent to a railroad, (3) undertaking to indemnify a municipality required by municipal ordinance except in connection with work for the municipality, (4) sidetrack agreement, or (5) elevator maintenance agreement;

**"Insured"** means any person or organization qualifying as an **Insured** in the "Persons Insured" provision of the applicable insurance coverage. The insurance afforded applies separately to each **Insured** against whom claim is made or suit is brought, except with respect to the limits of the Company's liability;

**"mobile equipment"** means a land vehicle (including any machinery or apparatus attached thereto), whether or not self-propelled, (1) not subject to motor vehicle registration, or (2) maintained for use exclusively on premises owned by or rented to the **Named Insured**, including the ways immediately adjoining, or (3) designed for use principally off public roads, or (4) designed or maintained for the sole purpose of affording mobility to equipment of the following types forming an integral part of or permanently attached to such vehicle: power cranes, shovels, loaders, diggers and drills; concrete mixers (other than the mix-in-transit type); graders, scrapers, rollers and other road construction or repair equipment; air-compressors, pumps and generators, including spraying, welding and building cleaning equipment; and geophysical exploration and well servicing equipment;

**"Named Insured"** means the person or organization named in Item 1. of the declarations of this policy;

**"Named Insured's products"** means goods or products manufactured, sold, handled or distributed by the **Named Insured** or by others trading under his name, including any container thereof (other than a vehicle), but **"Named Insured's products"** shall not include a vending machine or any property other than such container, rented to or located for use of others but not sold,

(continued on reverse side)

**"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**;

**"policy territory"** means:

- (1) the United States of America, its territories or possessions, or Canada, or
- (2) international waters or air space, provided the **bodily injury** or **property damage** does not occur in the course of travel or transportation to or from any other country, state or nation, or
- (3) anywhere in the world with respect to damages because of **bodily injury** or **property damage** arising out of a product which was sold for use or consumption within the territory described in paragraph (1) above, provided the

original suit for such damages is brought within such territory;

**"products hazard"** includes **bodily injury** and **property damage** arising out of the **Named Insured's** products or reliance upon a representation or warranty made at any time with respect thereto, but only if the **bodily injury** or **property damage** occurs away from premises owned by or rented to the **Named Insured** and after physical possession of such products has been relinquished to others;

**"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.

## SUPPLEMENTARY PAYMENTS

The Company will pay, in addition to the applicable limit of liability:

- (a) all expenses incurred by the Company, all costs taxed against the **Insured** in any suit defended by the Company and all interest on the entire amount of any judgment therein which accrues after entry of the judgment and before the Company has paid or tendered or deposited in court that part of the judgment which does not exceed the limit of the Company's liability thereon;
- (b) premiums on appeal bonds required in any such suit, premiums on bonds to release attachments in any such suit for an amount not in excess of the applicable limit of liability of this policy, and the cost of bail bonds required

of the **Insured** because of accident or traffic law violation arising out of the use of any vehicle to which this policy applies, not to exceed \$250 per bail bond, but the Company shall have no obligation to apply for or furnish any such bonds;

- (c) expenses incurred by the **Insured** for first aid to others at the time of an accident, for **bodily injury** to which this policy applies;
- (d) reasonable expenses incurred by the **Insured** at the Company's request in assisting the Company in the investigation or defense of any claim or suit, including actual loss of earnings not to exceed \$25 per day.

## CONDITIONS

0097-0297

**1. Premium** All premiums for this policy shall be computed in accordance with the Company's rules, rates, rating plans, premiums and minimum premiums applicable to the insurance afforded herein.

Premium designated in this policy as "advance premium" is a deposit premium only which shall be credited to the amount of the earned premium due at the end of the policy period. At the close of each period (or part thereof terminating with the end of the policy period) designated in the declarations as the audit period the earned premium shall be computed for such period and, upon notice thereof to the **Named Insured**, shall become due and payable. If the total earned premium for the policy period is less than the premium previously paid, the Company shall return to the **Named Insured** the unearned portion paid by the **Named Insured**.

The **Named Insured** shall maintain records of such information as is necessary for premium computation, and shall send copies of such records to the Company at the end of the policy period and at such times during the policy period as the Company may direct.

**2. Inspection and Audit** The Company shall be permitted but not obligated to inspect the **Named Insured's** property and operations at any time. Neither the Company's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the **Named Insured** or others, to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule or regulation.

The Company may examine and audit the **Named Insured's** books and records at any time during the policy period and extensions thereof and within three years after the final termination of this policy, as far as they relate to the subject matter of this insurance.

**3. Financial Responsibility Laws** When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, such insurance as is afforded by this policy for **bodily injury** liability or for **property damage** liability shall comply with the provisions of such law to the extent of the coverage and limits of liability required by

such law. The **Insured** agrees to reimburse the Company for any payment made by the Company which it would not have been obligated to make under the terms of this policy except for the agreement contained in this paragraph.

#### 4. **Insured's Duties in the Event of Occurrence, Claim or Suit**

- (a) In the event of an **occurrence**, written notice containing particulars sufficient to identify the **Insured** and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of available witnesses, shall be given by or for the **Insured** to the Company or any of its authorized agents as soon as practicable.
- (b) If claim is made or suit is brought against the **Insured**, the **Insured** shall immediately forward to the Company every demand, notice, summons or other process received by him or his representative.
- (c) The **Insured** shall cooperate with the Company and, upon the Company's request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the **Insured** because of injury or damage with respect to which insurance is afforded under this policy; and the **Insured** shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The **Insured** shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense other than for first aid to others at the time of accident.

**5. Action Against Company** No action shall lie against the Company unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this policy, nor until the amount of the **Insured's** obligation to pay shall have been finally determined either by judgment against the **Insured** after actual trial or by written agreement of the **Insured**, the claimant and the Company.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the Company as a party to any action against the **Insured** to determine the **Insured's** liability, nor shall the Company be impleaded by the **Insured** or his legal representative. Bankruptcy or insolvency of the **Insured** or of the **Insured's** estate shall not relieve the Company of any of its obligations hereunder.

**6. Other Insurance** The insurance afforded by this policy is primary insurance, except when stated to apply in excess of or contingent upon the absence of other insurance. When this insurance is primary and the **Insured** has other insurance which is stated to be applicable to the loss on an excess or contingent basis, the amount of the Company's liability under this policy shall not be reduced by the existence of such other insurance.

When both this insurance and other insurance apply to the loss on the same basis, whether primary, excess or contin-

gent, the Company shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

- (a) **Contribution by Equal Shares.** If all of such other valid and collectible insurance provides for contribution by equal shares, the Company shall not be liable for a greater proportion of such loss than would be payable if each insurer contributes an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid, and with respect to any amount of loss not so paid the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.
- (b) **Contribution by Limits.** If any of such other insurance does not provide for contribution by equal shares, the Company shall not be liable for a greater proportion of such 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.

**7. Subrogation** In the event of any payment under this policy, the Company shall be subrogated to all the **Insured's** rights of recovery therefor against any person or organization and the **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing after loss to prejudice such rights.

**8. Changes** Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the Company from asserting any right under the terms of this policy; nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy signed by an authorized representative of the Company.

**9. Assignment** Assignment of interest under this policy shall not bind the Company until its consent is endorsed hereon; if, however, the **Named Insured** shall die, such insurance as is afforded by this policy shall apply (1) to the **Named Insured's** legal representative, as the **Named Insured**, but only while acting within the scope of his duties as such, and (2) with respect to the property of the **Named Insured**, to the person having proper temporary custody thereof, as **Insured**, but only until the appointment and qualification of the legal representative.

**10. Three Year Policy** If this policy is issued for a period of three years, any limit of the Company's liability stated in this policy as "aggregate" shall apply separately to each consecutive annual period thereof.

**11. Declarations** By acceptance of this policy, the **Named Insured** agrees that the statements in the declarations are his agreements and representations, that this policy is issued in reliance upon the truth of such representations and that this policy embodies all agreements existing between himself and the Company or any of its agents relating to this insurance.

## NUCLEAR ENERGY LIABILITY EXCLUSION

(Applicable to all coverages except Comprehensive Personal, Farmer's Comprehensive Personal, and Family Automobile)

### I. This policy does not apply:

#### A. Under any Liability Coverage, to **bodily injury or property damage**

- (1) with respect to which an **Insured** under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
- (2) resulting from the **hazardous properties of nuclear material** and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the **Insured** is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

#### B. Under any Medical Payments Coverage, or under any Supplementary Payments provision relating to first aid, to expenses incurred with respect to **bodily injury** resulting from the **hazardous properties of nuclear material** and arising out of the operation of a **nuclear facility** by any person or organization.

#### C. Under any Liability Coverage, to **bodily injury or property damage** resulting from the **hazardous properties of nuclear material**, if

- (1) the **nuclear material** (a) is at any **nuclear facility** owned by, or operated by or on behalf of, an **Insured** or (b) has been discharged or dispersed therefrom;
- (2) the **nuclear material** is contained in **spent fuel** or **waste** at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an **Insured**; or
- (3) the **bodily injury or property damage** arises out of the furnishing by an **Insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to **property damage** to such **nuclear facility** and any property thereat.

### II. As used in this exclusion:

**"hazardous properties"** include radioactive, toxic or explosive properties;

**"nuclear material"** means **source material, special nuclear material or byproduct material**;

**"source material"**, **"special nuclear material"**, and **"byproduct material"** have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof,

**"spent fuel"** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**;

**"waste"** means any waste material

- (a) containing **byproduct material** other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **source material** content, and
- (b) resulting from the operation by any person or organization of any **nuclear facility** included under the first two paragraphs of the definition of **nuclear facility**;

**"nuclear facility"** means

- (a) any **nuclear reactor**,
- (b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing **spent fuel**, or (3) handling, processing or packaging **waste**,
- (c) any equipment or device used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the **Insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **waste**,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

**"nuclear reactor"** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

**"property damage"** includes all forms of radioactive contamination of property.

**COVERAGE PART:**

**COMPREHENSIVE GENERAL LIABILITY INSURANCE**

Forming a part of Policy

No. **MP 064063384**

Schedule

See Supplementary Schedule.

Description of Hazards *See Note Below <small>The rating classifications below do not modify the exclusions or other terms of this insurance.</small>	Code No.	Premium Bases	Rates		Advance Premiums		
			Bodily Injury	Property Damage	Bodily Injury	Property Damage	
Premises - Operations (Subline M&C 313, OLT 314)  Automobile dismantling-including salvage or junking or parts and store operations.	<u>75490</u>	(a) Area (Sq. Ft.) (b) Receipts (c) Remuneration	(a) Per 100 Sq. Ft. of Area (b) Per \$100 of Receipts (c) Per \$100 of Remuneration	Incl.	Incl.	Incl.	Incl.
Broad Form CGL	<u>99990</u>					Incl.	Incl.
Escalators (Subline 314)		Number	Per Landing				
Independent Contractors (Subline 315) If any, to be det. at audit		Cost	Per \$100 of Cost				
Completed Operations (Subline 316) If any, to be det. at audit		Receipts	Per \$1,000 of Receipts				
Products (Subline 316) Automobile Parts	<u>59993</u>	Receipts	Per \$1,000 of Receipts	Incl.	Incl.	Incl.	Incl.
Endorsement Nos.		Increased Limits Basic Charge (Subline 325, Code No. 99901)		\$	\$		
		Total Advance Premiums		\$ Incl.	\$ Incl.		

Location of all premises owned by, rented to or controlled by the Named Insured (if other than address shown in Item 1 of declarations):

Interest of Named Insured in such premises:  Owner  General Lessee  Tenant  Other (Specify)

0097-0300

Part occupied by Named Insured: **ENTIRE**

The foregoing discloses all hazards insured hereunder known to exist at the effective date of this policy, unless otherwise stated herein:

EPA0197

**NO EXCEPTIONS**

\*Premium for insured hazards not specifically rated herein will be determined by audit and charged accordingly.

**I COVERAGE A—BODILY INJURY LIABILITY**

**COVERAGE B—PROPERTY DAMAGE LIABILITY**

The Company will pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay as damages because of

- A. bodily injury or
- B. property damage

to which this insurance applies, caused by an occurrence, and the Company shall have the right and duty to defend any suit against the Insured seeking damages on account of such bodily injury or property damage, even if any of the allegations of the suit are groundless,

false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the Company shall not be obligated to pay any claim or judgment or to defend any suit after the applicable limit of the Company's liability has been exhausted by payment of judgments or settlements.

**Exclusions**

This insurance does not apply:

- (a) to liability assumed by the Insured under any contract or agreement except an incidental contract; but this exclusion does not apply to a warranty of fitness or quality of the Named Insured's products or a warranty that work performed by or on behalf of the Named Insured will be done in a workmanlike manner;

(Continued on reverse side)

(b) to **bodily injury** or **property damage** arising out of the ownership, maintenance, operation, use, loading or unloading of

(1) any **automobile** or aircraft owned or operated by or rented or loaned to any **Insured**, or

(2) any other **automobile** or aircraft operated by any person in the course of his employment by any **Insured**;

but this exclusion does not apply to the parking of an **automobile** on premises owned by, rented to or controlled by the **Named Insured** or the ways immediately adjoining, if such **automobile** is not owned by or rented or loaned to any **Insured**;

(c) to **bodily injury** or **property damage** arising out of (1) the ownership, maintenance, operation, use, loading or unloading of any **mobile equipment** while being used in any prearranged or organized racing, speed or demolition contest or in any stunting activity or in practice or preparation for any such contest or activity or (2) the operation or use of any **snowmobile** or trailer designed for use therewith;

(d) to **bodily injury** or **property damage** arising out of and in the course of the transportation of **mobile equipment** by an **automobile** owned or operated by or rented or loaned to any **Insured**;

(e) to **bodily injury** or **property damage** arising out of the ownership, maintenance, operation, use, loading or unloading of

(1) any **watercraft** owned or operated by or rented or loaned to any **Insured**, or

(2) any other **watercraft** operated by any person in the course of his employment by any **Insured**;

but this exclusion does not apply to **watercraft** while ashore on premises owned by, rented to or controlled by the **Named Insured**;

(f) to **bodily injury** or **property damage** arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water; but this exclusion does not apply if such discharge, dispersal, release or escape is sudden and accidental.

(g) to **bodily injury** or **property damage** due to war, whether or not declared, civil war, insurrection, rebellion or revolution or to any act or condition incident to any of the foregoing, with respect to

(1) liability assumed by the **Insured** under an **incidental contract**, or

(2) expenses for first aid under the Supplementary Payments provision;

(h) to **bodily injury** or **property damage** for which the **Insured** or his indemnitee may be held liable

(1) as a person or organization engaged in the business of manufacturing, distributing, selling or serving alcoholic beverages, or

(2) if not so engaged, as an owner or lessor of premises used for such purposes, if such liability is imposed

(i) by, or because of the violation of, any statute, ordinance or regulation pertaining to the sale, gift, distribution or use of any alcoholic beverage, or

(ii) by reason of the selling, serving or giving of any alcoholic beverage to a minor or to a person under the influence of alcohol or which causes or contributes to the intoxication of any person;

but part (ii) of this exclusion does not apply with respect to liability of the **Insured** or his indemnitee as an owner or lessor described in (2) above;

(i) to any obligation for which the **Insured** or any carrier as his insurer may be held liable under any workmen's compensation, unemployment compensation or disability benefits law, or under any similar law;

(j) to **bodily injury** to any employee of the **Insured** arising out of and in the course of his employment by the **Insured** or to any obligation of the **Insured** to indemnify another because of damages arising out of such injury; but this exclusion does not apply to liability assumed by the **Insured** under an **incidental contract**;

(k) to **property damage** to

(1) property owned or occupied by or rented to the **Insured**,

(2) property used by the **Insured**, or

(3) property in the care, custody or control of the **Insured** or as to which the **Insured** is for any purpose exercising physical control;

but parts (2) and (3) of this exclusion do not apply with respect to liability under a written sidetrack agreement and part (3) of this exclusion does not apply with respect to **property damage** (other than to **elevators**) arising out of the use of an **elevator** at premises owned by, rented to or controlled by the **Named Insured**;

(l) to **property damage** to premises alienated by the **Named Insured** arising out of such premises or any part thereof;

(m) to loss of use of tangible property which has not been physically injured or destroyed resulting from

(1) a delay in or lack of performance by or on behalf of the **Named Insured** of any contract or agreement, or

(2) the failure of the **Named Insured's products** or work performed by or on behalf of the **Named Insured** to meet the level of performance, quality, fitness or durability warranted or represented by the **Named Insured**;

but this exclusion does not apply to loss of use of other tangible property resulting from the sudden and accidental physical injury to or destruction of the **Named Insured's products** or work performed by or on behalf of the **Named Insured** after such products or work have been put to use by any person or organization other than an **Insured**;

(n) to **property damage** to the **Named Insured's products** arising out of such products or any part of such products;

(o) to **property damage** to work performed by or on behalf of the **Named Insured** arising out of the work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith;

(p) to damages claimed for the withdrawal, inspection, repair, replacement, or loss of use of the **Named Insured's products** or work completed by or for the **Named Insured** or of any property of which such products or work form a part, if such products, work or property are withdrawn from the market or from use because of any known or suspected defect or deficiency therein.

## II PERSONS INSURED

Each of the following is an **Insured** under this insurance to the extent set forth below:

(a) if the **Named Insured** is designated in the declarations as an individual, the person so designated but only with respect to the conduct of a business of which he is the sole proprietor, and the spouse of the **Named Insured** with respect to the conduct of such a business;

(b) if the **Named Insured** is designated in the declarations as a partnership or joint venture, the partnership or joint venture so designated and any partner or member thereof but only with respect to his liability as such;

(c) if the **Named Insured** is designated in the declarations as other than an individual, partnership or joint venture, the organization so designated and any executive officer, director or stockholder thereof while acting within the scope of his duties as such;

(d) any person (other than an employee of the **Named Insured**) or organization while acting as real estate manager for the **Named Insured**; and

(e) with respect to the operation, for the purpose of locomotion upon a public highway, of **mobile equipment** registered under any motor vehicle registration law,

(i) an employee of the **Named Insured** while operating any such equipment in the course of his employment, and

(ii) any other person while operating with the permission of the **Named Insured** any such equipment registered in the name of the **Named Insured** and any person or organization legally responsible for such operation, but only if there is no other valid and collectible insurance available, either on a primary or excess basis, to such person or organization;

provided that no person or organization shall be an **Insured** under this paragraph (e) with respect to:

(1) **bodily injury** to any fellow employee of such person injured in the course of his employment, or

(2) **property damage** to property owned by, rented to, in charge of or occupied by the **Named Insured** or the employer of any person described in subparagraph (ii).

This insurance does not apply to **bodily injury** or **property damage** arising out of the conduct of any partnership or joint venture of which the **Insured** is a partner or member and which is not designated in this policy as a **Named Insured**.

## III LIMITS OF LIABILITY

Regardless of the number of (1) **Insureds** under this policy, (2) persons or organizations who sustain **bodily injury** or **property damage**, or (3) claims made or suits brought on account of **bodily injury** or **property damage**, the Company's liability is limited as follows:

**Coverage A**—The total liability of the Company for all damages, including damages for care and loss of services, because of **bodily injury** sustained by one or more persons as the result of any one **occurrence** shall not exceed the limit of **bodily injury** liability stated in the declarations as applicable to "each **occurrence**".

Subject to the above provision respecting "each **occurrence**", the total liability of the Company for all damages because of (1) all **bodily injury** included within the **completed operations hazard** and (2) all **bodily injury** included within the **products hazard** shall not exceed the limit of **bodily injury** liability stated in the declarations as "aggregate".

**Coverage B**—The total liability of the Company for all damages because of all **property damage** sustained by one or more persons or organizations as the result of any one **occurrence** shall not exceed the limit of **property damage** liability stated in the declarations as applicable to "each **occurrence**".

Subject to the above provision respecting "each **occurrence**", the total liability of the Company for all damages because of all **property damage** to which this coverage applies and described in any of the numbered subparagraphs below shall not exceed the limit of **property damage** liability stated in the declarations as "aggregate":

(1) all **property damage** arising out of premises or operations rated on a remuneration basis or contractor's equipment rated on a receipts basis, including **property damage** for which liability is assumed under any **incidental contract** relating to such premises or operations, but excluding **property damage** included in subparagraph (2) below;

(2) all **property damage** arising out of and occurring in the course of operations performed for the **Named Insured** by independent contractors and general supervision thereof by the **Named Insured**, including any such **property damage** for which liability is assumed under any **incidental contract** relating to such operations, but this subparagraph (2) does not include **property damage** arising out of maintenance or repairs at premises owned by or rented to the **Named Insured** or structural alterations at such premises which do not involve changing the size of or moving buildings or other structures;

(3) all **property damage** included within the **products hazard** and all **property damage** included within the **completed operations hazard**.

Such aggregate limit shall apply separately to the **property damage** described in subparagraphs (1), (2) and (3) above, and under subparagraphs (1) and (2), separately with respect to each project away from premises owned by or rented to the **Named Insured**.

**Coverages A and B**—For the purpose of determining the limit of the Company's liability, all **bodily injury** and **property damage** arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one **occurrence**.

## IV POLICY TERRITORY

This insurance applies only to **bodily injury** or **property damage** which occurs within the **policy territory**.



This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement Effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

This endorsement modifies such insurance as is afforded by the provisions of any General Liability Insurance.

**ACTION AGAINST COMPANY AMENDMENT**  
(Massachusetts)

It is agreed that the clause "nor shall the company be impleaded by the insured or his legal representative" in the Action Against Company Condition shall not apply to any right of impleader under Rule 14 of the Massachusetts Rules of Civil Procedure, 365 Massachusetts 760 (1974).

EPA0199



This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

This endorsement modifies such insurance as is afforded by the provisions of any General Liability Insurance.

**MOBILE EQUIPMENT**  
(Massachusetts Compulsory Liability Security Act)

It is agreed that the following additional provisions apply to **bodily injury** and **property damage** arising out of the ownership, maintenance, use, loading or unloading of any **mobile equipment** with respect to which insurance is required of the **named insured** under the Massachusetts Compulsory Liability Security Act. (Chapter 346, Acts of 1925):

1. Except to the extent provided in paragraph 2. below, the insurance afforded by this policy does not apply either on a primary or excess basis to **bodily injury** or **property damage** with respect to which any insurance (regardless of amount) is afforded under any liability coverage (compulsory or optional) of a Massachusetts Motor Vehicle Policy issued to the **named insured**.
2. If the only liability insurance applicable with respect to such **bodily injury** under such a Motor Vehicle Policy is under the compulsory coverage, the Bodily Injury Liability Coverage of this policy shall apply in excess of such insurance, but only with respect to **bodily injury** arising out of the operation or use of the **mobile equipment** other than solely for the purposes of transportation or locomotion.

UNITED STATES FIDELITY AND GUARANTY COMPANY  
FIDELITY AND GUARANTY INSURANCE UNDERWRITERS, INC.  
FIDELITY AND GUARANTY INSURANCE COMPANY  
BALTIMORE, MARYLAND

DESCRIPTION OF TERMS USED AS PREMIUM BASES

COMPREHENSIVE GENERAL LIABILITY INSURANCE  
MANUFACTURERS AND CONTRACTORS LIABILITY INSURANCE  
OWNERS, LANDLORDS AND TENANTS LIABILITY INSURANCE  
SMP LIABILITY INSURANCE

When used as a premium basis:

1. Comprehensive General; Owners', Landlords' and Tenants'; SMP Liability Insurance—"admissions" means the total number of persons, other than employees of the Named Insured, admitted to the event insured or to events conducted on the premises whether on paid admission tickets, complimentary tickets or passes;
2. Comprehensive General; Manufacturers' and Contractors'; Owners', Landlords' and Tenants'; SMP Liability Insurance—"cost" mean the total cost to the Named Insured with respect to operations performed for the Named Insured during the policy period by independent contractors of all work let or sub-let in connection with each specific project, including the cost of all labor, materials and equipment furnished, used or delivered for use in the execution of such work, whether furnished by the owner, contractor or subcontractor, including all fees, allowances, bonuses or commissions made, paid or due;
3. Comprehensive General; Manufacturers' and Contractors'; Owners', Landlords' and Tenants'; SMP Liability Insurance—"receipts" means the gross amount of money charged by the Named Insured, by concessionaires of the Named Insured, or by others trading under his name for goods or products sold, or operations performed, (other than receipts from telecasting, broadcasting or motion pictures) and includes taxes (other than taxes which the Named Insured, concessionaires of the Named Insured and others trading under his name collect as a separate item and remit directly to the government.
4. Comprehensive General; Manufacturers' and Contractors'; Owners, Landlords' and Tenants'; SMP Liability Insurance which includes coverage for structural alterations, new construction and demolition operations—"remuneration" means the entire remuneration earned during the policy period by proprietors and by all employees of the Named Insured, other than chauffeurs (except operators of mobile equipment) and aircraft pilots and co-pilots, subject to any overtime earnings or limitation of remuneration rule applicable in accordance with the manuals in use by the Company;

EPA0201



This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by

(Authorized Representative)

This endorsement modifies such insurance as is afforded by the provisions of the policy relating to the following:

**COMPREHENSIVE GENERAL LIABILITY INSURANCE**

**BROAD FORM COMPREHENSIVE GENERAL LIABILITY ENDORSEMENT**

**Schedule**

Personal Injury and Advertising Injury Liability

Aggregate Limit shall be the per occurrence bodily injury liability limit unless otherwise indicated herein:

Limit of Liability \$ \_\_\_\_\_ Aggregate.

Limit of Liability—Premises Medical Payments Coverage: \$1,000 each person unless otherwise indicated herein:  
\$ \_\_\_\_\_ each person.

Limit of Liability—Fire Legal Liability Coverage: \$50,000 per occurrence unless otherwise indicated herein:  
\$ \_\_\_\_\_ per occurrence.

Premium Basis

Advance Premium

15 % of the Total Comprehensive General Liability  
Bodily Injury and Property Damage Premium as  
Otherwise Determined.

\$ Incl.

MINIMUM PREMIUM \$ Incl. B.I. Incl. P.D.

**I. CONTRACTUAL LIABILITY COVERAGE**

(A) The definition of incidental contract is extended to include any oral or written contract or agreement relating to the conduct of the named insured's business.

(B) The insurance afforded with respect to liability assumed under an incidental contract is subject to the following additional exclusions:

(1) to bodily injury or property damage for which the insured has assumed liability under any incidental contract, if such injury or damage occurred prior to the execution of the incidental contract;

(2) if the insured is an architect, engineer or surveyor, to bodily injury or property damage arising out of the rendering of or the failure to render professional services by such insured, including

(a) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, and

(b) supervisory, inspection or engineering services;

(3) if the indemnitee of the insured is an architect, engineer or surveyor, to the liability of the indemnitee, his agents or employees, arising out of

(a) the preparation or approval of or the failure to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or

(b) the giving of or the failure to give directions or instructions by the indemnitee, his agents or employees, provided such giving or failure to give is the primary cause of the bodily injury or property damage;

(4) to any obligation for which the insured may be held liable in an action on a contract by a third party beneficiary for bodily injury or property damage arising out of a project for a public authority; but this exclusion does not apply to an action by the public authority or any other person or organization engaged in the project;

(5) to 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; but this exclusion does not apply to sidetrack agreements.

(C) The following exclusions applicable to Coverages A (Bodily Injury) and B (Property Damage) do not apply to this Contractual Liability Coverage: (b), (c) (2), (d) and (e).

(D) The following additional condition applies:

**Arbitration**

The company shall be entitled to exercise all of the insured's rights in the choice of arbitrators and in the conduct of any arbitration proceeding.

## II. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY COVERAGE

(A) The company will pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of personal injury or advertising injury to which this insurance applies, sustained by any person or organization and arising out of the conduct of the named insured's business, within the policy territory, and the company shall have the right and duty to defend any suit against the insured seeking damages on account of such injury, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the company shall not be obligated to pay any claim or judgment or to defend any suit after the applicable limit of the company's liability has been exhausted by payment of judgments or settlements.

(B) This insurance does not apply:

(1) to liability assumed by the insured under any contract or agreement;

(2) to personal injury or advertising injury arising out of the willful violation of a penal statute or ordinance committed by or with the knowledge or consent of the insured;

(3) to personal injury or advertising injury arising out of a publication or utterance of a libel or slander, or a publication or utterance in violation of an individual's right of privacy, if the first injurious publication or utterance of the same or similar material by or on behalf of the named insured was made prior to the effective date of this insurance;

(4) to personal injury or advertising injury arising out of libel or slander or the publication or utterance of defamatory or disparaging material concerning any person or organization or goods, products or services, or in violation of an individual's right of privacy, made by or at the direction of the insured with knowledge of the falsity thereof;

(5) to personal injury or advertising injury arising out of the conduct of any partnership or joint venture of which the insured is a partner or member and which is not designated in the declarations of the policy as a named insured;

(6) to advertising injury arising out of

(a) failure of performance of contract, but this exclusion does not apply to the unauthorized appropriation of ideas based upon alleged breach of implied contract, or

(b) infringement of trademark, service mark or trade name, other than titles or slogans, by use thereof on or in connection with goods, products or services sold, offered for sale or advertised, or

(c) incorrect description or mistake in advertised price of goods, products or services sold, offered for sale or advertised;

(7) with respect to advertising injury

(a) to any insured in the business of advertising, broadcasting, publishing or telecasting, or

(b) to any injury arising out of any act committed by the insured with actual malice.

## (C) Limits of Liability

Regardless of the number of (1) insureds hereunder, (2) persons or organizations who sustain injury or damage, or (3) claims made or suits brought on account of personal injury or advertising injury, the total limit of the company's liability under this coverage for all damages shall not exceed the limit of liability stated in this endorsement as "aggregate".

## (D) Additional Definitions

"Advertising Injury" means injury arising out of an offense committed during the policy period occurring in the course of the named insured's advertising activities, if such injury arises out of libel, slander, defamation, violation of right of privacy, piracy, unfair competition, or infringement of copyright, title or slogan.

"Personal Injury" means injury arising out of one or more of the following offenses committed during the policy period:

(1) false arrest, detention, imprisonment, or malicious prosecution;

(2) wrongful entry or eviction or other invasion of the right of private occupancy;

(3) a publication or utterance

(a) of a libel or slander or other defamatory or disparaging material, or

(b) in violation of an individual's right of privacy;

except publications or utterances in the course of or related to advertising, broadcasting, publishing or telecasting activities conducted by or on behalf of the named insured shall not be deemed personal injury.

## III. PREMISES MEDICAL PAYMENTS COVERAGE

The company will pay to or for each person who sustains bodily injury caused by accident all reasonable medical expense incurred within one year from the date of the accident on account of such bodily injury, provided such bodily injury arises out of (a) a condition in the insured premises, or (b) operations with respect to which the named insured is afforded coverage for bodily injury liability under the policy.

This insurance does not apply:

(A) to bodily injury

(1) arising out of the ownership, maintenance, operation, use, loading or unloading of

(a) any automobile or aircraft owned or operated by or rented or loaned to any insured, or

(b) any other automobile or aircraft operated by any person in the course of his employment by any insured;

but this exclusion does not apply to the parking of an automobile on the insured premises, if such automobile is not owned by or rented or loaned to any insured;

(2) arising out of

(a) the ownership, maintenance, operation, use, loading or unloading of any mobile equipment while being used in any prearranged or organized racing, speed or demolition contest or in any stunting activity or in practice or preparation for any such contest or activity, or

(b) the operation or use of any snowmobile or trailer designed for use therewith;

(i) owned or operated by or rented or loaned to any insured, or

(ii) operated by any person in the course of his employment by any insured;

(3) arising out of the ownership, maintenance, operation, use, loading or unloading of

(a) any watercraft owned or operated by or rented or loaned to any insured, or

(b) any other watercraft operated by any person in the course of his employment by any insured;

but this exclusion does not apply to watercraft while ashore on the insured premises;

(4) arising out of and in the course of the transportation of mobile equipment by an automobile owned or operated by or rented or loaned to the named insured;

(B) to bodily injury

(1) included within the completed operations hazard or the products hazard;

(2) arising out of operations performed for the named insured by independent contractors other than

(a) maintenance and repair of the insured premises, or

(b) structural alterations at such premises which do not involve changing the size of or moving buildings or other structures;

(3) resulting from the selling, serving or giving of any alcoholic beverage

(a) in violation of any statute, ordinance or regulation,

(b) to a minor,

(c) to a person under the influence of alcohol, or

## BROAD FORM COMPREHENSIVE GENERAL LIABILITY ENDORSEMENT—(Continued)

GL 04 04  
(Ed. 5-81)

(d) which causes or contributes to the intoxication of any person,

if the **named insured** is a person or organization engaged in the business of manufacturing, distributing, selling or serving alcoholic beverages, or if not so engaged, is an owner or lessor of premises used for such purposes, but only part (a) of this exclusion (B) (3) applies when the **named insured** is such an owner or lessor;

(4) due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing;

(C) to **bodily injury**

(1) to the **named insured**, any partner thereof, any tenant or other person regularly residing on the **insured premises** or any employee of any of the foregoing if the **bodily injury** arises out of and in the course of his employment therewith;

(2) to any other tenant if the **bodily injury** occurs on that part of the **insured premises** rented from the **named insured** or to any employee of such a tenant if the **bodily injury** occurs on the tenant's part of the **insured premises** and arises out of and in the course of his employment for the tenant;

(3) to any person while engaged in maintenance and repair of the **insured premises** or alteration, demolition or new construction at such premises;

(4) to any person if any benefits for such **bodily injury** are payable or required to be provided under any workmen's compensation, unemployment compensation or disability benefits law, or under any similar law;

(5) to any person practicing, instructing or participating in any physical training, sport, athletic activity or contest whether on a formal or informal basis;

(6) if the **named insured** is a club, to any member of the **named insured**;

(7) if the **named insured** is a hotel, motel, or tourist court, to any guest of the **named insured**;

(D) to any **medical expense** for services by the **named insured**, any employee thereof or any person or organization under contract to the **named insured** to provide such services.

## LIMITS OF LIABILITY

The limit of liability for Premises Medical Payments Coverage is \$1,000 each person unless otherwise stated in the schedule of this endorsement. The limit of liability applicable to "each person" is the limit of the company's liability for all **medical expense** for **bodily injury** to any one person as the result of any one accident; but subject to the above provision respecting "each person", the total liability of the company under Premises Medical Payments Coverage for all **medical expense** for **bodily injury** to two or more persons as the result of any one accident shall not exceed the limit of **bodily injury** liability stated in the policy as applicable to "each occurrence".

When more than one **medical payments** coverage afforded by the policy applies to the loss, the company shall not be liable for more than the amount of the highest applicable limit of liability.

## ADDITIONAL DEFINITIONS

When used herein:

"**insured premises**" means all premises owned by or rented to the **named insured** with respect to which the **named insured** is afforded coverage for **bodily injury** liability under this policy, and includes the ways immediately adjoining on land;

"**medical expense**" means expenses for necessary medical, surgical, x-ray and dental services, including prosthetic devices, and necessary ambulance, hospital, professional nursing and funeral services.

## ADDITIONAL CONDITION

Medical Reports; Proof and Payment of Claim

As soon as practicable the injured person or someone on his behalf shall give to the company written proof of claim, under oath if required, and shall, after each request from the company, execute authorization to enable the company to obtain medical reports and copies of records. The injured

person shall submit to physical examination by physicians selected by the company when and as often as the company may reasonably require. The company may pay the injured person or any person or organization rendering the services and the payment shall reduce the amount payable hereunder for such injury. Payment hereunder shall not constitute an admission of liability of any person or, except hereunder, of the company.

## IV. HOST LIQUOR LAW LIABILITY COVERAGE

Exclusion (h) does not apply with respect to liability of the **insured** or his indemnitee arising out of the giving or serving of alcoholic beverages at functions incidental to the **named insured's** business, provided the **named insured** is not engaged in the business of manufacturing, distributing, selling or serving of alcoholic beverages.

## V. FIRE LEGAL LIABILITY COVERAGE—REAL PROPERTY

With respect to **property damage** to structures or portions thereof rented to or leased to the **named insured**, including fixtures permanently attached thereto, if such **property damage** arises out of fire

(A) All of the exclusions of the policy, other than the Nuclear Energy Liability Exclusion (Broad Form), are deleted and replaced by the following:

This insurance does not apply to liability assumed by the **insured** under any contract or agreement.

(B) The limit of **property damage** liability as respects this Fire Legal Liability Coverage—Real Property is \$50,000 each occurrence unless otherwise stated in the schedule of this endorsement.

(C) The Fire Legal Liability Coverage—Real Property shall be excess insurance over any valid and collectible property insurance (including any deductible portion thereof), available to the **insured**, such as, but not limited to, Fire, Extended Coverage, Builder's Risk Coverage or Installation Risk Coverage, and the Other Insurance Condition of the policy is amended accordingly.

## VI. BROAD FORM PROPERTY DAMAGE LIABILITY COVERAGE (Including Completed Operations)

The insurance for **property damage** liability applies, subject to the following additional provisions:

(A) Exclusions (k) and (o) are replaced by the following:

(1) to property owned or occupied by or rented to the **insured**, or, except with respect to the use of **elevators**, to property held by the **insured** for sale or entrusted to the **insured** for storage or safekeeping;

(2) except with respect to liability under a written sidetrack agreement or the use of **elevators**

(a) to property while on premises owned by or rented to the **insured** for the purpose of having operations performed on such property by or on behalf of the **insured**,

(b) to tools or equipment while being used by the **insured** in performing his operations,

(c) to property in the custody of the **insured** which is to be installed, erected or used in construction by the **insured**,

(d) to that particular part of any property, not on premises owned by or rented to the **insured**,

(i) upon which operations are being performed by or on behalf of the **insured** at the time of the **property damage** arising out of such operations, or

(ii) out of which any **property damage** arises, or

(iii) the restoration, repair or replacement of which has been made or is necessary by reason of faulty workmanship thereon by or on behalf of the **insured**;

(3) with respect to the **completed operations hazard** and with respect to any classification stated in the policy or in the company's manual as "including completed operations", to **property damage** to work performed by the **named insured** arising out of such work or any portion thereof, or out of such materials, parts or equipment furnished in connection therewith.

(B) The Broad Form Property Damage Liability Coverage shall be excess insurance over any valid and collectible property insurance (including

any deductible portion thereof) available to the insured, such as, but not limited to, Fire, Extended Coverage, Builder's Risk Coverage or Installation Risk Coverage, and the Other Insurance Condition of the policy is amended accordingly.

#### VII. INCIDENTAL MEDICAL MALPRACTICE LIABILITY COVERAGE

The definition of **bodily injury** is amended to include **Incidental Medical Malpractice Injury**.

**Incidental Medical Malpractice Injury** means injury arising out of the rendering of or failure to render, during the policy period, the following services:

- (A) *medical, surgical, dental, x-ray or nursing service or treatment or the furnishing of food or beverages in connection therewith; or*  
 (B) *the furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances.*

This coverage does not apply to:

- (1) expenses incurred by the insured for first-aid to others at the time of an accident and the "Supplementary Payments" provision and the "Insured's Duties in the Event of Occurrence, Claim or Suit" Condition are amended accordingly;
- (2) any insured engaged in the business or occupation of providing any of the services described under VII (A) and (B) above;
- (3) injury caused by any indemnitee if such indemnitee is engaged in the business or occupation of providing any of the services described under VII (A) and (B) above.

#### VIII. NON-OWNED WATERCRAFT LIABILITY COVERAGE (under 26 feet in length)

Exclusion (e) does not apply to any watercraft under 26 feet in length provided such watercraft is neither owned by the named insured nor being used to carry persons or property for a charge.

Where the insured is, irrespective of this coverage, covered or protected against any loss or claim which would otherwise have been paid by the company under this endorsement, there shall be no contribution or participation by this company on the basis of excess, contributing, deficiency, concurrent, or double insurance or otherwise.

#### IX. LIMITED WORLDWIDE LIABILITY COVERAGE

The definition of **policy territory** is amended to include the following:

- (4) Anywhere in the world with respect to **bodily injury, property damage, personal injury or advertising injury** arising out of the activities of any insured permanently domiciled in the United States of America though temporarily outside the United States of America, its territories and possessions or Canada, provided the original suit for damages because of any such injury or damage is brought within the United States of America, its territories or possessions or Canada.

Such insurance as is afforded by paragraph (4) above shall not apply:

- (a) to **bodily injury or property damage** included within the **completed operations hazard** or the **products hazard**;
- (b) to **Premises Medical Payments Coverage**.

#### X. ADDITIONAL PERSONS INSURED

As respects **bodily injury, property damage and personal injury and advertising injury coverages**, under the provision "Persons Insured", the following are added as insureds:

- (A) **Spouse—Partnership**—If the named insured is a partnership, the spouse of a partner but only with respect to the conduct of the business of the named insured;
- (B) **Employee**—Any employee (other than executive officers) of the named insured while acting within the scope of his duties as such, but the insurance afforded to such employee does not apply:

- (1) to **bodily injury or personal injury** to another employee of the named insured arising out of or in the course of his employment;
- (2) to **personal injury or advertising injury** to the named insured or, if the named insured is a partnership or joint venture, any partner or member thereof, or the spouse of any of the foregoing;
- (3) to **property damage** to property owned, occupied or used by, rented to, in the care, custody or control of or over which physical control is being exercised for any purpose by another employee of the named insured, or by the named insured or, if the named insured is a partnership or joint venture, by any partner or member thereof or by the spouse of any of the foregoing.

#### XI. EXTENDED BODILY INJURY COVERAGE

The definition of **occurrence** includes any intentional act by or at the direction of the insured which results in **bodily injury**, if such injury arises solely from the use of reasonable force for the purpose of protecting persons or property.

#### XII. AUTOMATIC COVERAGE—NEWLY ACQUIRED ORGANIZATIONS (90 DAYS)

The word **insured** shall include as named insured any organization which is acquired or formed by the named insured and over which the named insured maintains ownership or majority interest, other than a joint venture, provided this insurance does not apply to **bodily injury, property damage, personal injury or advertising injury** with respect to which such new organization under this policy is also an insured under any other similar liability or indemnity policy or would be an insured under any such policy but for exhaustion of its limits of liability. The insurance afforded hereby shall terminate 90 days from the date any such organization is acquired or formed by the named insured.



Commerical Lines  
Department

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**IMPORTANT NOTICE - MASSACHUSETTS**

**Changes In Your Policy**

Amendatory Endorsement GL 00 31 or GL 00 32 is attached to your policy and changes the employers liability exclusion of the policy.

Coverage has been reduced with respect to bodily injury sustained by the spouse, child, parent, brother or sister of an employee of the insured as a consequence of bodily injury to such employee arising out of and in the course of his employment by the insured. This coverage is specifically provided by the standard Worker's Compensation and Employer's Liability policy applicable in this state.

EPA0206

0097-0309

This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement effective \_\_\_\_\_ Policy No. \_\_\_\_\_ Endorsement No. \_\_\_\_\_  
Named Insured \_\_\_\_\_  
Additional Premium \$ \_\_\_\_\_ Countersigned by \_\_\_\_\_  
(Authorized Representative)

This endorsement modifies such insurance as is afforded by the provisions of the policy relating to the following:

COMPREHENSIVE GENERAL LIABILITY INSURANCE  
MANUFACTURERS AND CONTRACTORS LIABILITY INSURANCE  
OWNERS, LANDLORDS AND TENANTS LIABILITY INSURANCE  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY INSURANCE  
STOREKEEPERS INSURANCE  
SMP LIABILITY INSURANCE

**Amendatory Endorsement**

It is agreed that the exclusion relating to **bodily injury** to any employee of the **insured** is deleted and replaced by the following:

This insurance does not apply:

- (i) to **bodily injury** to any employee of the **insured** arising out of and in the course of his employment by the **insured** for which the **insured** may be held liable as an employer or in any other capacity;
- (ii) to any obligation of the **insured** to indemnify or contribute with another because of damages arising out of the **bodily injury**; or
- (iii) to **bodily injury** sustained by the spouse, child, parent, brother or sister of an employee of the **insured** as a consequence of **bodily injury** to such employee arising out of and in the course of his employment by the **insured**;

This exclusion applies to all claims and suits by any person or organization for damages because of such **bodily injury** including damages for care and loss of services.

This exclusion does not apply to liability assumed by the **insured** under an **incidental contract**.

This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

This endorsement modifies such insurance as is afforded by the provisions of the policy relating to the following:

**COMPREHENSIVE GENERAL LIABILITY INSURANCE**

**EXCLUSION**

(Explosion, Collapse and Underground Property Damage Hazards)

It is agreed that:

1. The following exclusion is added to the policy:

(a) to **property damage** included within:

- (1) the **explosion hazard** in connection with operations identified in the policy by a classification code number which includes the symbol "x",
- (2) the **collapse hazard** in connection with operations identified in the policy by a classification code number which includes the symbol "c",
- (3) the **underground property damage hazard** in connection with operations identified in the policy by a classification code number which includes the symbol "u".

2. When used in reference to this endorsement.

"collapse hazard" includes "structural property damage" as defined herein and **property damage** to any other property at any time resulting therefrom. "Structural property damage" means the collapse of or structural injury to any building or structure due to (1) grading of land, excavating, borrowing, filling, back-filling, tunnelling, pile driving, cofferdam work or caisson work or (2) moving, shoring, underpinning, raising or demolition of any building or structure or removal or rebuilding of any structural support thereof. The **collapse hazard** does not include **property damage** (1) arising out of operations performed for the **Named Insured** by independent contractors, or (2) included within the **completed operations hazard** or the **underground property damage hazard**, or (3) for which liability is assumed by the **Insured** under an **incidental contract**;

"explosion hazard" includes **property damage** arising out of blasting or explosion. The **explosion hazard** does not include **property damage** (1) arising out of the explosion of air or steam vessels, piping under pressure, prime movers, machinery or power transmitting equipment, or (2) arising out of operations performed for the **Named Insured** by independent contractors, or (3) included within the **completed operations hazard** or the **underground property damage hazard**, or (4) for which liability is assumed by the **Insured** under an **incidental contract**;

"underground property damage hazard" includes "underground property damage" as defined herein and **property damage** to any other property at any time resulting therefrom. "Underground property damage" means **property damage** to wires, conduits, pipes, mains, sewers, tanks, tunnels, any similar property, and any apparatus in connection therewith, beneath the surface of the ground or water, caused by and occurring during the use of mechanical equipment for the purpose of grading land, paving, excavating, drilling, borrowing, filling, back-filling or pile driving. The **underground property damage hazard** does not include **property damage** (1) arising out of operations performed for the **Named Insured** by independent contractors, or (2) included within the **completed operations hazard**, or (3) for which liability is assumed by the **Insured** under an **incidental contract**.

EPA0208

ATTACH FORMS FOR PRECEDING DIVISION

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EPA0209

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UNITED STATES FIDELITY AND GUARANTY COMPANY  
 FIDELITY AND GUARANTY INSURANCE UNDERWRITERS, INC.

*Baltimore, Maryland*  
 Each A Capital Stock Company

Reference in this policy to "The Company" or to "This Company" means the Company designated above by the letter X.

No. MP 091697221

MASTER INSURANCE POLICY—  
 GENERAL DECLARATIONS

MP064063384  
 Previous Policy No.

Named Insured and P. O. Address (No., Street, Town, County, State)  
 Clifford C. & Grace E. Boutwell d/b/a Aberjona Auto Parts  
 278 Salem Street  
 Woburn, MA 01801

Branch Office and Agent  
 Boston, MA  
 Boyle Ins. Agency, Inc.  
 1-07-4323

Policy Term: 1 Years      8-1-86 Inception (Mo. Day Yr.)      8-1-87 Expiration (Mo. Day Yr.)      12:00 Noon, standard time at the address of the Named Insured as stated herein.

Business of the Named Insured is Auto Parts Store

Insurance is provided only with respect to those Coverages designated below by the word "Included" but only to the extent set forth in the Specific Forms and Endorsements made a part of this Policy.

COVERAGES		ENTER "INCLUDED" IF COVERAGE IS PROVIDED.
DIVISION I PROPERTY COVERAGE	Building(s)	2,250.00
	Personal Property	1,305.00
	Additional Coverages (Specify)	
DIVISION II LIABILITY COVERAGE	Comprehensive Liability—Except Automobile	8,344.00
	Comprehensive Liability—Automobile	
	Automobile Physical Damage	
DIVISION III FIDELITY, FORGERY, BURGLARY, OR OTHER CRIME COVERAGES	Comprehensive Dishonesty, Disappearance and Destruction	
	Blanket Crime Coverage	
	Additional Coverages (Specify)	
DIVISION IV BOILER AND MACHINERY	Boiler and Machinery	
DIVISION V MISCELLANEOUS COVERAGES	Glass	
	Inland Marine	
Total Advance Premium		\$ 11,944.00
If Paid in Annual Installments: Amount Due at Inception		\$
Each Subsequent Anniversary		\$

This policy is made and accepted in consideration of the conditions, provisions, stipulations and declarations contained herein and in the Specific Forms and Endorsements attached hereto.

IN WITNESS WHEREOF, this Company has caused this Policy to be signed by its President and its Secretary and countersigned by a duly authorized representative.  
 UNITED STATES FIDELITY AND GUARANTY CO.      FIDELITY AND GUARANTY INSURANCE UNDERWRITERS, INC.

*William F. Splieth* Secretary      *Paul J. Scheel* President      *William F. Splieth* Secretary      *Paul J. Scheel* President

Agency at Woburn, MA

Countersignature Date am 11-21-86

Countersigned by

*Edward Boyle*  
 Authorized Representative

GENERAL POLICY CONDITIONS APPLICABLE TO DIVISION I

**CONFORMITY WITH STATUTE**

The terms of this policy and forms attached hereto which are in conflict with the statutes of the state wherein this policy is issued are hereby amended to conform to such statutes.

GENERAL POLICY CONDITIONS APPLICABLE TO DIVISION I AND DIVISION II

**CANCELLATION**

- (a) The words "five days" in the cancellation provision of Division I of the policy are deleted and the words "ten days" are substituted therefor.
- (b) The cancellation provision of Division I as amended by (a) above shall also apply to Division II, except that as respects any Division II coverage on a reporting basis, or subject to audit or retrospective rating, premium adjustment shall be made as soon as practicable after cancellation becomes effective, and payment or tender of unearned premium is not a condition of cancellation.

GENERAL POLICY CONDITIONS APPLICABLE TO DIVISIONS I, II, III, IV AND V

**1. SPECIAL DEFINITIONS**

Wherever in any form or endorsement attached:

- (a) the word "bond" or "policy" appears it shall mean the Division of this policy of which such form is a part;
- (b) the word "Underwriter" or "Surety" appears it shall mean the Company; and
- (c) the words "policy period" or "bond period" appear they shall mean the policy term as set forth in the General Declarations.

**2. PREMIUM**

The premium stated in the General Declarations as total advance premium shall be adjusted upon termination of the policy in accordance with the premium computation provisions, if any, of the applicable forms included in each Division of this policy.

**3. TIME OF INCEPTION**

To the extent that any coverage in this policy replaces a coverage in another policy which terminates at 12:01 A.M. (Standard Time) on the inception date of this policy, this policy as respects such replaced coverage only shall be construed to be effective at 12:01 A.M. (Standard Time) instead of at noon (Standard Time).

*This policy shall not be valid unless countersigned by the duly authorized agent of the Company.*

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If coverage under this policy is provided by the Fidelity and Guaranty Insurance Underwriters, Inc., the following shall apply:

The entire liability under this policy is reinsured by United States Fidelity and Guaranty Company, Baltimore, Maryland, and the insured is hereby given and granted the same rights of recovery against United States Fidelity and Guaranty Company as the insured has against Fidelity and Guaranty Insurance Underwriters, Inc.

It is hereby agreed and acknowledged that the liability created hereunder is a joint and/or several obligation.

UNITED STATES FIDELITY AND GUARANTY COMPANY

*William F. Spliedt*

Secretary

*Paul J. Scheel*

President



# COVERAGE CHANGE SUMMARY

## COMMERCIAL FIRE AND ALLIED LINES MASSACHUSETTS

### IMPORTANT CHANGES IN YOUR POLICY

This renewal policy may have increased or reduced your coverage from the policy it replaces. To help you determine the broadening or reduction which may have occurred, the following is a summary of all changes which have occurred over the last three years to many policy forms and endorsements.

Whether or not a change applies to your policy depends on when your policy and its predecessor were issued and on which forms and endorsements are part of your policy. The changes listed with an effective date lying between the dates on which your policy and its predecessor were issued apply to your policy only if the listed policy form or endorsement is part of your policy.

#### I. Changes effective February 1, 1980/April 1, 1980.

Changes A through C are all broadenings of coverage.

##### A. Foundations and Excavations Endorsement CF 10 44 (Edition 10 79)

This new endorsement provides foundations and excavations coverage for all the perils you are insuring against in your policy, including Earthquake.

##### B. Reporting Endorsement E CF 13 52 (Edition 10 79)

This endorsement has been revised to allow coverage to be written on a blanket basis. For example, one limit of liability can cover both your property and that of others instead of having separate limits.

##### C. Incidental Values Endorsement (For Use With Reporting Endorsements A and E) CF 13 72 (Edition 10 79)

This endorsement has been revised so that it can now be attached to Reporting Endorsement E. You can now report the total of all incidental values of personal property at all locations.

Changes D through N are all reductions of coverage.

COMMERCIAL FIRE

Page 2 of 14

- D. Special Building Form CF 00 13 (Edition 10 79)

Theft Exclusion:

The exception in this exclusion has been reworded to only provide theft coverage for property which is "installed or attached to and made part of a building". The coverage previously applied to property which was an "integral part" of a building.

- E. Earthquake Property Form CF 10 43 (Edition 10 79)

Other Provisions - Foundations and Excavations:

This provision, which provided automatic earthquake coverage for the cost of excavations, foundations and pilings, has been withdrawn from this form. Coverage is now available under the new Foundations and Excavations Endorsement CF 10 44.

- F. Builders' Risk Basic Form CF 11 01 (Edition 10 79)

- G. Builders' Risk Completed Value Form CF 11 02 (Edition 10 79)

- H. Builders' Risk Reporting Form CF 11 05 (Edition 10 79)

- I. Contractor's Automatic Builders' Risk Completed Value Reporting Form CF 11 10 (Edition 10 79)

The following applies to Forms F through I:

Deductibles:

A \$500 Vandalism or Malicious Mischief deductible is introduced to provide conformity with related Builders' Risk forms. Previously a \$100 deductible applied.

- J. Combined Business Interruption and Extra Expense Insurance Form CF 15 05 (Edition 10 79)

- K. Extra Expense Insurance Form CF 15 06 (Edition 10 79)

The following applies to Forms J and K:

Limitations and Exclusions - Special Exclusion:

An additional Special Exclusion has been added to exclude from extra expense coverage any losses incurred after the period of restoration caused by lapsed or cancelled licenses or contracts.

- L. Special Coverage Endorsement CF 10 03 (Edition 10 79)
- M. Special Coverage Endorsement - Builders' Risk CF 10 04 (Edition 10 79)

The following applies to Endorsements L and M:

Theft Exclusion:

The exception in this exclusion has been reworded to only provide theft coverage for property which is "installed or attached to and made a part of a building". The coverage previously applied to property which was an "integral part" of a building.

- N. Earthquake Extension Endorsement CF 10 41 (Edition 10 79)

The Foundations and Excavations coverage clause, which provided automatic earthquake coverage for the cost of excavations, foundations and pilings, has been withdrawn from this form. Coverage is now available by attaching new Foundations and Excavations Endorsement CF 10 44.

II. Changes effective March 1, 1980

Massachusetts Amendatory Endorsement IL 01 04 (Edition 11 79)

Reduction of Coverage:

This endorsement has been amended to include a new provision for cancellation by the Company to conform with Massachusetts Law. The cancellation provisions allowing the Company to cancel for any reason during the first 60 days following policy inception now also apply during the 60 days following any anniversary date. After the 60 day period following policy inception or anniversary, the Company may cancel for only certain specified reasons.

III. Changes effective May 1, 1981/July 1, 1981

Changes A through D are all broadenings of coverage.

- A. General Property Form CF 00 11 (Edition 05 81)

Extension of Coverage - Off Premises:

- a. This extension of coverage has been revised to include a minimum limit of \$1,000 for off premises coverages for personal property. Previously, the extension could have been for an amount less than \$1,000.

- b. The restriction that your personal property off premises must be in the process of cleaning, repairing, reconstruction or restoration is deleted.

B. Special Personal Property Form CF 00 14 (Edition 05 81)

1. Extension of Coverage - Off Premises:

This extension of coverage is introduced to provide a 2%, \$1,000 minimum/\$5,000 maximum off premises coverage for personal property, subject to limitations. Previously, no coverage was provided.

2. Extension of Coverage - Outdoor Trees, Shrubs and Plants:

An Extension of Coverage for Outdoor Trees, Shrubs and Plants is introduced to provide coverage up to \$1,000 against direct loss by the perils of fire, lightning, explosion, riot, civil commotion or aircraft. Previously, no coverage was provided.

C. Demolition Cost Endorsement CF 04 06 (Edition 05 81)

Demolition Cost coverage may now be obtained separately from Contingent Liability From Operation of Building laws coverage.

D. Vacancy or Unoccupancy Endorsement CF 04 50 (Edition 05 81)

The 90 day limitation for each permitted period of vacancy or unoccupancy has been eliminated.

E. Off Premises Power Clause CF 15 46 (Edition 05 81)

Reduction of Coverage:

Coverage under this form is now limited to only the "specified perils" of fire, extended coverage, vandalism or malicious mischief and leakage from automatic fire protection systems.

IV. Changes effective November 1, 1981/January 1, 1982

Massachusetts Replacement Cost Endorsement CF 04 22 (Edition 07 81)

Reduction of Coverage:

This is a new endorsement to comply with Massachusetts Law. It requires destroyed or damaged property to be replaced or repaired at the policy address or elsewhere in Massachusetts within two years of the date of loss.

V. Changes effective July 1, 1982

Massachusetts Amendatory Endorsement CF 01 09 (Ed. 6-82)

The following reduction in coverage is required by Massachusetts law:

1. Notice of cancellation to the insured for reasons other than non-payment of premium is 5 days instead of 20 days, and notice of cancellation for non-payment of premium is 10 days instead of 20 days.
2. In case of loss the insured must now also:
  - a. protect property from further damage
  - b. separate damaged and undamaged personal property;
  - c. put property in best possible order;
  - d. furnish an inventory of damaged property;
  - e. issue a sworn statement including changes of title, use, occupancy, location, possession or exposures of property and whether or not it stood on leased ground;
  - f. furnish a copy of descriptions and schedules in all policies;
  - g. furnish detailed repair estimates;
  - h. exhibit remains of property to company; and
  - i. submit to examinations under oath.

VI. Changes effective January 1, 1983/March 1, 1983

A. Broadenings of Coverage:

1. General Property Form CF 00 11 (Edition 01 83)

Section VI - Perils Insured Against - Vandalism or Malicious Mischief:

- a. The change in temperature or humidity exclusion is deleted from the vandalism peril. Since loss due to change in temperature or humidity caused by vandalism or malicious mischief is now automatically covered under this form, vandalism coverage is simultaneously deleted from optional On Premises Power Failure - Loss Assumption Endorsement - Riot CF 04 18 in order to avoid duplication of coverage.
- b. An exclusion has been reworded to clarify that unoccupancy which is usual or incidental to the described occupancy is not excluded.

2. Special Building Form CF 00 13 (Edition 01 83)

Section VIII - Exclusions:

Exclusion E.3. is clarified to indicate that unoccupancy which is usual or incidental to the described occupancy is not excluded.

3. Special Personal Property Form CF 00 14 (Edition 01 83)

Section III - Property Subject to Limitations - Item 1:

The sublimits have been increased as follows:

- a. Fur and fur garments: From \$1,000 to \$2,500 per occurrence.
- b. Jewelry and watches: From \$1,000 to \$2,500 per occurrence. This limitation now does not apply to items valued at \$50 or less per item. Previously, it did not apply to items of \$25 or less.
- c. Patterns and dies: From \$1,000 to \$2,500 per occurrence.

4. Earthquake Property Form CF 10 43 (Edition 12 81)

This form is revised to provide coverage for loss caused by volcanic eruption.

B. Reductions of Coverage:

1. General Property Form CF 00 11 (Edition 01 83)

a. Section III - Extensions of Coverage - Valuable Papers and Records:

"Computer programs" are now included under "valuable papers and records" and are subject to the limitation specified under this extension of coverage. You should specifically insure computer programs for full values under other types of insurance.

b. Section VII - Exclusions:

- (1). Exclusion 9. is introduced to clarify that this form does not cover loss caused by earth movement.

- (2) Exclusion 10. is introduced to clarify that this form does not cover loss caused by volcanic eruption. Coverage for earthquake and volcanic eruption are provided by the optional earthquake coverage form and endorsements.

c. Section VIII - Valuation:

A valuation basis has been added stating that the value of computer programs cannot exceed the cost of labor incurred by the named insured for transcribing or copying such programs.

2. Special Building Form CF 00 13 (Edition 01 83)

Section VIII - Exclusions:

- a. Exclusion E.8. is introduced to clarify that this form does not cover loss caused by volcanic eruption. Such coverage is now available in the optional earthquake coverage form and endorsements.
- b. Exclusion E.9. is introduced to exclude loss caused by faulty design, specifications, workmanship, etc. if an excluded peril contributes to the loss at any time. Thus, faulty construction, design or workmanship that has contributed to a loss does not void the application of any other exclusion contained in this form.

3. Special Personal Property Form CF 00 14 (Edition 01 83)

- a. Section III - Property Subject to Limitations - Item 2:

"Computer programs" are now included under "valuable papers and records" and are subject to the limitation specified.

- b. Section IV - Extensions of Coverage:

(1). Item C. Valuable Papers and Records:

The five hundred dollar amount which the insured is permitted to apply to cover the cost of reproducing, replacing or restoring items included under valuable papers and records now also applies to the cost of reproducing, replacing or restoring computer programs.

(2). Item E. Extra Expense:

The exclusion under this extension which excludes the cost of replacing or restoring items included under valuable papers and records is reworded to also exclude the cost of replacing or restoring computer programs.

c. Section VI - Exclusions:

Exclusions A.13 is introduced to clarify that this form does not cover loss caused by volcanic eruption. Such coverage is now available in the optional earthquake coverage form and endorsements.

d. Section VII - Valuation:

A valuation basis has been added stating that the value of computer programs cannot exceed the cost of labor incurred by the named insured for transcribing or copying such programs.

4. Errors and Omissions Form CF 00 63 (Edition 01 83) - Section V.A. - Exclusions
5. Business Interruption - Gross Earnings Form for Mercantile or Non-Manufacturing Risks CF 15 03 (Edition 01 83) - Section II - General Exclusions
6. Business Interruption - Gross Earnings Form for Manufacturing or Mining Risks CF 15 04 (Edition 01 83) Section II - General Exclusions

The following applies to Forms D. through F.:

An exclusion has been introduced to clarify that loss caused by volcanic eruption is not covered. Such coverage is now available in the optional earthquake coverage form and endorsements.

C. Endorsements (Broadenings and Reductions):

1. Protective Safeguards Endorsements IL 00 14 (Edition 01 83)

Broadening of Coverage:

Item D. Other Protective Safeguard Clause(s)

This provision has been amended to clarify that the insured must maintain only the protective safeguard system which is under the control of the insured.

0097-0322

2. Amendatory Endorsement CF 01 24 (Edition 12 79)

a. Broadening of Coverage:

This new endorsement amends the policy as follows:

(1). Personal Property of the Insured:

The Personal Property of the Insured coverage is amended to delete the requirement that personal property must be "usual to the occupancy of the named insured."

(2). Subrogation:

This clause, contained in all property and time element forms, now provides that the insured may waive in writing, after a loss, his right of recovery against any of the following third parties:

(a). A third party insured under the policy.

(b). A controlling or subsidiary entity.

(c). A tenant of the named insured.

(3). Permits and Use:

This clause, contained in all property forms, is amended by permitting:

(a). coverage for additions, alterations and repairs including temporary structures and materials, equipment and supplies used for such additions, alterations and repairs. Previously, such coverage was permitted only in the General Property Form; the all risk forms covered only alterations and repairs.

(b). vacancy beyond a period of 60 days subject to a 15% reduction in loss payments. Previously, vacancy beyond 60 days resulted in suspension of coverage.

(c). increased hazards and change in use or occupancy.

(d). errors in stating the name and location of covered buildings or of buildings and personal property covered under a single item of insurance, provided there is no willful concealment or misrepresentation.

0097-0323

(4). Extensions of Coverage - Newly Acquired Property:

The amount of coverage now permitted for newly acquired property is 25% of the amount of insurance specified for Coverage A - Buildings. Previously, under the Special Building Form, this 25% could not exceed \$100,000. Under the General Property Form, the insured was permitted to apply only 10%, but not exceeding \$25,000, of the Coverage A - Buildings amount of insurance.

b. Reduction of Coverage:

Subrogation:

Applicable to the Special Personal Property Form CF 00 14:

Previously, the policy explicitly stated that the insured could accept bills of lading, receipts or contracts of transportation on property in transit which are ordinarily issued by carriers containing a limitation as to the value of the goods.

3. Deductible Clause No. 3 CF 03 48 (Edition 01 83):

Broadening of Coverage:

The \$10,000 minimum deductible is reduced to \$5,000.

4. Specified Perils Off Premises Power Failure - Loss Assumption Endorsement IL 04 09 (Edition 01 83)

Broadening of Coverage:

The endorsement, previously numbered CF 04 17, has been revised to provide for selecting coverage for loss to either or both buildings and personal property. Previously, under Off Premises Power Failure - Loss Assumption Endorsement - Specified Perils CF 04 17, coverage was available only for personal property.

5. All Risks Off Premises Power Failure - Loss Assumption Endorsement IL 04 10 (Edition 01 83)

Broadening of Coverage:

This new endorsement provides for selection of all risk off premises power failure coverage for either or both buildings and personal property. A 12 hour waiting period deductible applies, unless loss is caused by one of the specified perils. This endorsement does not cover loss resulting from damage to power transmission lines.

6. Miscellaneous Real or Building Property Endorsement IL 04 11 (Edition 01 83)

Broadening of Coverage:

This new endorsement enables commercial condominium unit-owners to insure real or building property when required by the Condominium Declaration.

7. Condominium Unit-Owners Loss Assessment Coverage Endorsement IL 04 12 (Edition 01 83)

Broadening of Coverage:

This new endorsement provides coverage for a commercial condominium unit-owner for loss assessment charges made by the condominium association.

8. On Premises Power Failure - Loss Assumption Endorsement - Riot CF 04 18 (Edition 01 83)

Broadening of Coverage:

This endorsement has been revised to provide for selecting on premises power failure coverage for either or both buildings and personal property due to change in temperature or humidity caused by the peril of riot. Previously, coverage was available only for personal property.

9. Special Personal Property Alcoholic Beverage Tax Exclusion Endorsement IL 09 14 (Ed. 01 83)

Reduction of Coverage:

This new endorsement allows the value of government taxes and custom duties on alcoholic beverages to be excluded for all losses other than theft under the Special Personal Property Form. As permitted under Public Law 95-423, the Federal Treasury may refund these taxes and duties on alcoholic beverages lost or rendered unmarketable due to fire, flood, casualty or other disaster, or damage (excluding theft) resulting from vandalism or malicious mischief.

10. Volcanic Action Extension Endorsement IL 09 15 (Edition 01 83)

Broadening of Coverage:

This new endorsement provides "above ground" volcanic action coverage.

11. Extended Coverage Endorsement CF 10 01 (Edition 01 83)

12. Optional Perils Endorsement CF 10 02 (Edition 01 83)

The following applies to Endorsements K. and L.:

Reduction of Coverage:

Section II - Exclusions:

An exclusion has been introduced to clarify that loss caused by volcanic eruption is not covered. Such coverage is now available in the optional earthquake coverage form and endorsements.

13. Special Coverage Endorsement CF 10 03 (Edition 01 83)

a. Broadening of Coverage:

Section II - Exclusions:

Exclusion A.5. is clarified to indicate that unoccupancy which is usual or incidental to the described occupancy is not excluded.

b. Reductions of Coverage:

Section II - Exclusions:

(1). Exclusion A.7 is introduced to clarify that this form does not cover loss caused by volcanic eruption. Such coverage is now available in the optional earthquake coverage form and endorsements.

(2) Exclusion A.8. is introduced to exclude loss caused by faulty design, specifications, workmanship, etc. if an excluded peril contributes to the loss at any time. Thus, faulty construction, design or workmanship that has contributed to a loss does not void the application of any other exclusion contained in this form.

14. Special Coverage Endorsement - Builders' Risk CF 10 04 (Edition 01 83)

Reduction of Coverage:

Section III - Exclusions:

Exclusions A.7. is introduced to clarify that this endorsement does not cover loss caused by volcanic eruption. Such coverage is now available in the optional earthquake coverage form and endorsements.

15. Vandalism or Malicious Mischief Endorsement CF 10 21 (Edition 01 83)

Broadening of Coverage:

Item F. is clarified to indicate that unoccupancy which is usual or incidental to the described occupancy is not excluded.

16. Sprinkler Leakage Earthquake Extension Endorsement CF 10 39 (Edition 12 81)

17. Earthquake Extension Endorsement CF 10 41 (Edition 12 81)

18. Foundations and Excavations Endorsement CF 10 44 (Edition 12 81)

The following applies to Endorsements P. through R.:

Broadening of Coverage:

Coverage for loss caused by volcanic eruption has been added.

19. Builders' Risk Renovations Coverage Endorsement CF 11 13 (Edition 01 83)

Broadening of Coverage:

This new endorsement provides a means to cover renovations to existing buildings under the Builders' Risk Program. By attaching this endorsement to Builders' Risk Completed Value Form CF 11 02 or Builders' Risk Reporting Form CF 11 05, the interest of the building owner or of the contractor or of both in improvements, alterations or repairs is covered. In determining the provisional amount of insurance, the value of real property which existed prior to the renovations should be excluded.

20. Builders' Risk Renovations Exclusion Clause CF 11 16 (Edition 01 83)

Reduction of Coverage:

This new endorsement excludes under General Property Form CF 00 11 and Special Building Form CF 00 13 the value of building renovations (improvements, alterations or repairs) and of real property that is demolished or permanently removed in the course of renovations. The value of renovations can be insured under the Builders' Risk Program. (See above).

0097-0327

21. Agreed Amount Endorsement CF 12 10 (Edition 01 83)

Broadening of Coverage:

This endorsement has been revised to allow a waiver of inventory of the undamaged property if the aggregate claim for loss is less than 10% of the total amount of insurance. Previously, the amount permitted was only less than 5%.

22. Renewal Endorsement CF 12 40 (Edition 01 83)

Broadening of Coverage:

Reference to "annual" has been deleted from this endorsement so that policies may be renewed for other periods. The renewal term must be shown in the endorsement.

23. Massachusetts Condominium Association Property Endorsement CF 17 05 (Edition 01 83)

Broadening of Coverage:

This new endorsement provides coverage for condominium association property by revising several provisions in the General and Special Property Forms.

24. Condominium Unit-Owners Property Endorsement CF 17 02 (Edition 01 83)

Broadening of Coverage:

This new endorsement revises the Personal Property of the Insured provisions of the basic forms to provide coverage for a unit-owner of a commercial condominium, including coverage for fixtures, improvements and alterations owned by the unit-owner.

25. Condominium Endorsement (Additional Property Provisions) CF 17 03 (Edition 01 83)

This new endorsement can be used to:

1. exclude coverage for fixtures and other items or
2. specify what property is to be covered.

This endorsement may be attached to the condominium association endorsement or the unit-owners endorsement to provide coverage as specified in the Condominium Declaration.

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It is hereby agreed and understood that the following is hereby added as mortgagee:

Woburn Five Cents Savings Bank  
19 Pleasant Street  
Woburn, MA 01801

This endorsement, from its effective date, forms a part of the policy described below issued by the Company named therein.

End. No.	End. Effective Date	Co.	B.O.	Agency Code	Policy Number	Named Insured
1	8/1/86	1	07	4323	MP091697221	Aberjona Auto Parts

(The spaces above are to be completed only if this endorsement is issued subsequent to the issuance of the policy.)

*William F. Splidt*  
Boyle Ins. Agcy. Inc. Secretary  
12/31/86: 1f

UNITED STATES FIDELITY AND GUARANTY COMPANY  
FIDELITY AND GUARANTY INSURANCE UNDERWRITERS, INC.  
FIDELITY AND GUARANTY INSURANCE COMPANY

*Paul J. Scheel*  
President

Countersigned by *[Signature]* .....  
Authorized Representative



# MASTER INSURANCE POLICY

## DIVISION I—DECLARATIONS

### PROPERTY COVERAGE

Forming part of Policy No. MP <b>091697221</b>	Dated <b>8-1-86</b>	Branch Office and Agent <b>Boston, MA</b>
Issued By <b>United States Fidelity and Guaranty Company</b> <small>(Company)</small>		Boyle Ins. Agcy. Inc.
Named Insured <b>Clifford C. &amp; Grace E. Boutwell d/b/a Aberjona Auto Parts</b>		<b>1-07-4323</b>

**INSURANCE IS PROVIDED AGAINST ONLY THOSE PERILS AND FOR ONLY THOSE COVERAGES INDICATED BELOW AND AGAINST OTHER PERILS AND FOR OTHER COVERAGES ONLY WHEN ENDORSED HEREDON OR ADDED HERETO.**

AMOUNT	PERIL(S) Insured Against and Coverage(s) Provided <small>(Insert Name of Each)</small>	Enter "included" or a Premium if Coverage is Provided.
\$ <b>315,000</b> XXXXXXXX	<b>FIRE AND LIGHTNING</b>	<b>Incl.</b>
	<b>EXTENDED COVERAGE</b>	<b>Incl.</b>
	<b>V.M.M.</b>	<b>Incl.</b>
	<b>All Risk</b>	<b>Incl.</b>

Item No.	AMOUNT	Per Cent of Co-insurance Applicable	Subject to Attached Form No(s). Edition Date(s)	DESCRIPTION AND LOCATION OF PROPERTY COVERED <small>Show construction, type of roof and occupancy of building(s) covered or containing the property covered.</small>
1.	275,000.	80	CF0013(10-83) CF0109(06-82) IL0002(01-77) CF0346(05-77) IL0018(10-84) CF0124(12-79)	On the masonry building occupied as a Used Auto Parts Store situated at: 278 Salem Street Woburn, MA 01801
2.	40,000.	80	CF0014(10-83) CF0109(06-82) IL0002(01-77) IL0018(10-84) CF0124(12-79)	On furniture, fixtures & equipment in above described building.

It is important that the written portions of all policies covering the same property read exactly alike. If they do not, they should be made uniform at once.

am 11-21-86

**In case of fire notify the Company or its local Agent at once in writing.**

**Mortgage Interest:** Subject to the mortgage provisions, lines 87 to 104 herein, loss, if any, on real estate, shall be payable to:

INSERT NAME(S) OF MORTGAGEE(S) AND MAILING ADDRESS(ES)

0097-0331

# MASTER INSURANCE POLICY

## DIVISION I PROPERTY COVERAGE FORM

### MASSACHUSETTS STANDARD POLICY

IN CONSIDERATION OF THE PROVISIONS AND STIPULATIONS HEREIN OR ADDED HERETO AND OF the premium specified in the declarations, this Company, for the term of years specified in the declarations from inception date specified in the declarations (at 12:01 A.M. Standard Time) to expiration date specified in the declarations (at 12:01 A.M. Standard Time) at location of property involved, to an amount not exceeding the amount(s) specified in the declarations, does insure the insured named in the declarations and legal representatives, to the extent of the actual cash value of the property at the time of loss, but in no event for more than the interest of the insured, against all **LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED**, to the property described in the declarations while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

**Concealment fraud.** This entire policy shall be void if, whether before or after a loss, the insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

**Uninsurable and excepted property.** This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts.

**Perils not included.** This Company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in the neighboring premises; (j) nor shall this Company be liable for loss by theft.

**Other Insurance.** Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

**Conditions suspending or restricting insurance.** Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring (a) while the hazard is increased by any means within the control or knowledge of the insured; or (b) while the described premises, whether intended for occupancy by owner or tenant, are vacant or unoccupied beyond a period of sixty consecutive days for residential premises of three units or less and thirty (30) consecutive days for all other premises, or (c) as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

**Other perils or subjects.** Any other perils to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

**Added provisions.** The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

**Waiver provisions.** No permission affecting this insurance shall exist, or waive or any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

**Cancellation of policy.** This policy shall be cancelled at any time at the request of the insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by this Company by giving to the insured a five days written notice of cancellation, and to the mortgagee to whom this policy is payable twenty days written notice of cancellation except where the stated reason for cancellation is nonpayment of premium where, in such instance, this policy may be cancelled at any time by this Company by giving to the insured a ten days written notice of cancellation, and the mortgagee a twenty days written notice of cancellation, with or without tender of the excess paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium, if not tendered, will be refunded on demand and shall state or be accompanied by a statement of the specific reason or reasons for such cancellation. After this policy has been in effect for sixty days, or after sixty days from any anniversary date, no notice of cancellation shall be effective unless it is based on

the occurrence, after the effective date of the policy, of one or more of the following: (1) nonpayment of premium; (2) conviction of a crime arising out of acts increasing the hazard insured against; (3) discovery of fraud or material misrepresentation by the insured in obtaining the policy; (4) discovery of willful or reckless acts or omissions by the insured increasing the hazard insured against; (5) physical changes in the property insured which result in the property becoming uninsurable; or (6) a determination by the commissioner that continuation of the policy would violate or place the insurer in violation of the law. Where the stated reason is nonpayment of premium, the insured may continue the coverage and avoid the effect of the cancellation by payment at any time prior to the effective date of cancellation.

**Mortgagee interests and obligations.** Notwithstanding any other provisions of this policy, if this policy shall be made payable to a mortgagee of the covered real estate, no act or default of any person other

than such mortgagee or his agent or those claiming under him, whether the same occurs before or during the term of this policy, shall render this policy void as to such mortgagee nor affect such mortgagee's right to recover in case of loss on such real estate: provided, that the mortgagee shall on demand pay according to the established scale of rate for any increase of risk not paid for by the insured; and whenever this Company shall be liable to a mortgagee for any sum for loss under this policy for which no liability exists as to the mortgagor, or owner, and this Company shall elect by itself, or with others, to pay the mortgagee the full amount secured by such mortgage, then the mortgagee shall assign and transfer to the company interested, upon such payment, the said mortgage together with the note and debt thereby secured.

**Pro rata liability.** This Company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved.

**Requirements in case loss occurs.** The insured shall give immediate written notice to this Company of any loss, protect the property from

further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed and damaged property, showing in detail the quantity, description, actual cash value and amount of loss claimed; and the insured shall forthwith render to this Company a signed, sworn statement in proof of loss which sets forth to the best knowledge and belief of the insured the following: the time and cause of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupancy, location, possession or exposures of said property, since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and detailed estimates for repair of the damage. The insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may

be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

**When loss payable.** In case of any loss or damage, the Company, within thirty days after the insured shall have submitted a statement, as provided in the preceding clause, shall either pay the amount for which it shall be liable, which amount if not agreed upon shall be ascertained by award of referees as hereinafter provided, or replace the property with other of the same kind and goodness; or it may, within fifteen days after such statement is submitted, notify the insured of its intention to rebuild or repair the premises, or any portion thereof separately covered by this policy, and shall thereupon enter upon said premises and proceed to rebuild or repair the same with reasonable expedition. It is moreover understood that there can be no abandonment of the property described to the Company, and that the Company shall not in any case be liable for more than the sum insured, with interest thereon from the time when the loss shall become payable, as above provided. The Company shall be liable for the payment of interest to the insured at a rate of one percent over the prime interest rate on the agreed figure commencing thirty days after the date an executed proof of loss for such figure is received by the Company, said interest to continue so long as the claim remains unpaid.

**Reference.** In case of loss under this policy and a failure of the parties to agree as to the amount of loss, it is mutually agreed that the amount of such loss shall be referred to three disinterested men, the Company and the insured each choosing one out of three persons to be named by the other and the third being selected by the two so chosen; and the award in writing by a majority of the referees shall be conclusive and final upon the parties as to the amount of loss or damage, and such reference, unless waived by the parties, shall be a condition precedent to any right of action in law or equity to recover for such loss; but no person shall be chosen or act as a referee, against the objection of either party, who has acted in a like capacity within four months.

**Suit.** No suit or action against this Company for the recovery of any claim by virtue of this policy shall be sustained in any court of law or equity in this commonwealth unless commenced within two years from the time the loss occurred; provided, however, that if, within said two years, in accordance with the provisions of the preceding paragraph, the amount of the loss shall have been referred to arbitration after failure of the parties to agree thereon, the limitation of time for bringing such suit or action shall in no event be less than ninety days after a valid award has been made upon such reference or after such reference or award has been expressly waived by the parties. If suit or action upon this policy is enjoined or abated, suit or action may be commenced at any time within one year after the dissolution of such injunction, or the abatement of such suit or action, to the same extent as would be possible if there was no limitation of time provided herein for the bringing of such suit or action.

**Subrogation.** This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

This form cancels and replaces any coverage on buildings provided under any other form made a part of this policy, but only with respect to buildings to which this form is shown to be applicable.

Insurance applies only to item(s) specifically described in this policy for which an amount of insurance is shown and, unless otherwise provided, all provisions and stipulations of this form and policy shall apply separately to each such item.

## SECTION I—PROPERTY COVERED

When insurance under this policy covers "Buildings", such insurance shall cover in accordance with the following description of coverage.

**COVERAGE A—BUILDING(S):** Building(s) or structure(s) shall include attached additions and extensions; fixtures, machinery and equipment constituting a permanent part of and pertaining to the service of the building(s); materials and supplies intended for use in construction, alteration or repair of the building(s) or structure(s); yard fixtures; personal property of the named Insured used for the maintenance or service of the described building(s), including fire extinguishing apparatus, outdoor furniture, floor coverings and appliances for refrigerating, ventilating, cooking, dishwashing and laundering (but not including other

personal property in apartments or rooms furnished by the named Insured as landlord); all while at the described premises.

**DEBRIS REMOVAL:** This policy covers expense incurred in the removal of debris of the property covered hereunder which may be occasioned by loss by a peril not otherwise excluded. The total amount recoverable under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying to the described property.

## SECTION II—ADDITIONAL COVERAGE

**COLLAPSE—**This policy insures against risk of direct physical loss involving collapse of a building or any part of a building caused only by one or more of the following:

- a. fire; lightning; windstorm; hail; explosion; smoke; aircraft; vehicles; riot; civil commotion; vandalism or malicious mischief; breakage of glass; falling objects; weight of snow, ice or sleet; water damage; all only as insured against in this policy;
- b. hidden decay;
- c. hidden insect or vermin damage;
- d. weight of people or personal property;
- e. weight of rain which collects on a roof;
- f. use of defective material or methods in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation.

This Company shall not be liable for loss to the following types of property under items b., c., d., e. and f. unless the loss is a direct result of the collapse of a building:

1. Outdoor radio or television antennas, including their lead-in wiring, masts or towers; awnings; gutters and downspouts; yard fixtures;
2. If specifically covered in this policy, outdoor swimming pools; fences; piers, wharves and docks; beach or diving platforms or appurtenances; retaining walls; walks, roadways and other paved surfaces.

Collapse does not include settling, cracking, shrinkage, bulging or expansion.

This Additional Coverage does not increase the amount(s) of insurance provided in this policy.

## SECTION III—PROPERTY NOT COVERED

This policy does not cover:

- A. Outdoor swimming pools; fences; piers, wharves and docks, beach or diving platforms or appurtenances; retaining walls not constituting a part of a building; walks, roadways and other surfaces.
- B. The cost of excavations, grading or filling; foundations of buildings, machinery, boilers or engines which foundations are below the under-surface of the lowest basement floor, or where there is no basement.

below the surface of the ground; pilings, piers, pipes, flues and drains which are underground, pilings which are below the low water mark.

- C. Outdoor signs, whether or not attached to a building or structure.
- D. Lawns, outdoor trees, shrubs and plants, except as provided in the Extensions of Coverage.
- E. Property which is more specifically covered in whole or in part by this or any other contract of insurance, except for the amount of loss which is in excess of the amount due from such more specific insurance.

## SECTION IV—PROPERTY SUBJECT TO LIMITATIONS

The following property is subject to these additional limitations:

- A. Plumbing, heating, air conditioning or other equipment or appliances (except fire protective systems) are not covered against loss caused by or resulting from freezing while the described buildings are vacant or unoccupied, unless the named Insured shall have exercised due diligence with respect to maintaining heat in the buildings or unless such equipment and appliances had been drained and the water supply shut off during such vacancy or unoccupancy.
- B. Steam boilers, steam pipes, steam turbines or steam engines are not covered against loss caused by any condition or occurrence within such boilers, pipes, turbines or engines (except direct loss resulting from the explosion of accumulated gases or unconsumed fuel within the firebox, or combustion chamber, of any fired vessel or within the flues or passages which conduct the gases of combustion therefrom).
- C. Hot water boilers or other equipment for heating water are not covered against loss caused by any condition or occurrence within such boilers or equipment, other than an explosion.
- D. Glass is not covered against loss for more than \$50 per plate, pane, multiple plate, insulating unit, radiant heating panel, jalousie, louver or shutter, nor for more than \$250 in any one occurrence, unless caused by fire, lightning, windstorm, hail, aircraft, vehicles, discharge from fire protection or building service equipment, explosion, riot or civil commotion, and then this Company shall be liable only to the extent that such perils are insured against in this policy.
- E. Fences, pavements, outdoor swimming pools and related equipment, retaining walls, bulkheads, piers, wharves or docks, when covered under this policy, are not covered against loss caused by freezing or

thawing, impact of watercraft, or by the pressure or weight of ice or water whether driven by wind or not.

- F. Metal smokestacks and, when outside of buildings (1) awnings of fabric or slat construction, canopies of fabric or slat construction, including their supports, and (2) radio or television antennas, including their lead-in wiring, masts or towers are not covered against loss caused by ice, snow, sleet, windstorm or hail.
- G. The interior of buildings is not covered against loss caused by rain, snow, sand or dust, whether driven by wind or not, unless (1) the buildings shall first sustain an actual damage to roof or walls by the direct action of wind or hail, and then this Company shall be liable for loss to the interior of the buildings as may be caused by rain, snow, sand or dust entering the buildings through openings in the roof or walls made by direct action of wind or hail; or (2) such loss results from fire, lightning, aircraft, vehicles, explosion, riot, civil commotion, vandalism, malicious mischief, weight of ice, snow or sleet to the extent that such perils are insured against in this policy.
- H. Buildings or structures in process of construction, including materials and supplies therefor, when covered under this policy, are not covered against loss unless caused by fire, lightning, windstorm, hail, aircraft, vehicles, smoke, explosion, riot, civil commotion, vandalism or malicious mischief, and then this Company shall be liable only to the extent that such perils are insured against in this policy.
- I. Property undergoing alterations, repairs, installations or servicing is not covered against loss if such loss is directly attributable to the operations or work being performed thereon, unless a peril not excluded by this policy ensues, and then this Company shall be liable for only loss caused by such ensuing peril.

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## SECTION V—EXTENSIONS OF COVERAGE

Except with respect to Extension D, Replacement Cost:

(A) Each of the limits of liability specified for the following Extensions of Coverage applies as an additional amount of insurance.

(B) The Coinsurance Clause shall not apply to loss under the Extensions of Coverage.

The total amount recoverable under the Extensions of Coverage in this form and Extensions of Coverage in any other form made a part of this policy are not cumulative and shall not exceed the largest amount recoverable under any single form made a part of this policy.

When, in accordance with the Other Insurance condition, there is Contributing Insurance, this Company shall not be liable for more than its pro rata share of the limits set forth in the following Extensions of Coverage.

**A. Newly Acquired Property:** The named insured may apply up to 25% of the amount of insurance specified for Building(s), but not exceeding \$100,000, to cover direct loss in any one occurrence by a peril not otherwise excluded to the following described property:

1. New buildings and new structures being constructed on the described premises and intended for similar occupancy when not otherwise covered by insurance. This coverage shall cease 30 days from the date construction begins or on the date the values of new construction are reported to this Company, or on the expiration date of the policy, whichever occurs first.

2. Building acquired by the named Insured at any locations, elsewhere than at the described premises, within or between the fifty states of the United States of America, the District of Columbia and Puerto Rico and used for similar occupancies or warehouse purposes. This coverage shall cease 30 days from the date of such acquisition or on the date values of the buildings are reported to this Company, or on the expiration date of the policy, whichever occurs first.

3. Additional premium shall be due and payable for values so reported from the date construction begins or the property is acquired.

**B. Off-Premises:** The named Insured may apply up to 2% of the amount of insurance specified for Building(s), but not exceeding \$5,000, at a described location to cover direct loss in any one occurrence by a peril not otherwise excluded to property covered under Building(s) while removed from the described premises for purposes of cleaning,

repairing, reconstruction or restoration. This Extension of Coverage shall not apply to property in transit, nor to property on any premises owned, leased, operated or controlled by the named Insured.

**C. Outdoor Trees, Shrubs and Plants:** The named Insured may apply up to \$1,000 to cover outdoor trees, shrubs and plants at the described premises against direct loss in any one occurrence by the perils of fire, lightning, explosion, riot, civil commotion or aircraft, but only to the extent such perils are insured against herein. This Company shall not be liable for more than \$250 on any one tree, shrub or plant, including expense incurred for removing debris thereof.

**D. Replacement Cost:** In the event of loss to a building or structure covered under this policy, when the full cost of repair or replacement is less than \$1,000, the coverage of this policy is extended to cover the full cost of repair or replacement (without deduction for depreciation). Coverage shall be applicable only to a building or structure covered hereunder, but excluding outdoor furniture, outdoor equipment, floor coverings, awnings, and appliances for refrigerating, ventilating, cooking, dishwashing and laundering, all whether or not permanently attached to the building or structure.

This Company shall not be liable under this Extension of Coverage unless the whole amount of insurance applicable to the building or structure for which claim is made is equal to or in excess of the amount produced by multiplying the actual cash value of such property at the time of the loss by the coinsurance percentage applicable (specified on the first page of this policy), or by endorsement)

## SECTION VI—DEDUCTIBLE CLAUSE

The sum of \$100 shall be deducted from the amount of loss to property in any one occurrence. This deductible shall apply separately

to each building. The aggregate amount of this deductible in any one occurrence shall not exceed \$1,000.

## SECTION VII—PERILS INSURED AGAINST

This policy insures against risks of direct physical loss unless the loss is excluded in Section IX—Exclusions below, subject to the provisions and stipulations herein and in the policy of which this form is made a part.

## SECTION VIII—COINSURANCE CLAUSE

This Company shall not be liable for a greater proportion of any loss to the property covered than the amount of insurance under this policy for such property bears to the amount produced by multiplying the actual cash value of such property at the time of the loss by the coinsurance percentage applicable (specified on the first page of this policy, or by endorsement).

In the event that the aggregate claim for any loss is both less than \$10,000 and less than 5% of the total amount of insurance applicable

to the property involved at the time such loss occurs, no special inventory or appraisal of the undamaged property shall be required, providing that nothing herein shall be construed to waive the application of the first paragraph of this clause.

The value of property covered under Extension of Coverage, and the cost of the removal of debris, shall not be considered in the determination of actual cash value when applying the Coinsurance Clause.

## SECTION IX—EXCLUSIONS

1. This policy does not insure against loss caused directly or indirectly by any of the following. Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss.

**A.** Loss occasioned directly or indirectly by enforcement of any ordinance or law regulating the use, construction, repair, or demolition of buildings or structures including debris removal expense.

**B.** Loss caused directly or indirectly by the interruption of power or other utility service furnished to the described premises if the interruption takes place away from the described premises. If a peril not otherwise excluded ensues on the described premises, this Company will pay only for loss caused by the ensuing peril.

**C.** Loss caused by, resulting from, contributed to or aggravated by any of the following:

1. earth movement, including but not limited to earthquake, landslide, mudflow, earth sinking, earth rising or shifting;

2. flood, surface water, tidal water or tidal wave, overflow of streams or other bodies of water, or spray from any of the foregoing, all whether driven by wind or not;

3. water which backs up through sewers or drains; or

4. water below the surface of the ground including that which exerts pressure on or flows, seeps or leaks through sidewalks, driveways, foundations, walls, basement or other floors, or through doors, windows, or any other openings in such sidewalks, driveways, foundations, walls or floors;

unless fire or explosion as insured against ensues, and then this Company shall be liable for only loss caused by the ensuing fire or explosion; but these exclusions shall not apply to loss arising from theft.

5. volcanic eruption unless direct loss by fire or breakage of glass or safety glazing material ensues. In this event, this Company shall be liable for only the direct loss to the property insured caused by the ensuing fire and if an insured peril, the ensuing breakage of glass or safety glazing material.

Volcanic eruption means the eruption, explosion or effusion of a volcano.

**D. War Risk And Governmental Action Exclusion:** This policy shall not apply to loss caused, directly or indirectly, by or due to any act or condition incident to the following:

1. hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces; or (b) by military, naval or air forces; or (c) by an agent of any such government, power, authority or forces, it being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority or forces;

2. insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence; seizure or destruction under quarantine or custom's regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade.

**E. Nuclear Clause And Nuclear Exclusion:**

1. **Nuclear Clause (Not Applicable in New York):** The word "fire" in this policy is not intended to and does not embrace nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, and loss by nuclear reaction or nuclear radiation or radioactive contamination is not intended to be and is not insured against by this policy, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by "fire" or any other perils insured against by this policy. However, subject to the foregoing and all provisions of this policy, direct loss by "fire" resulting from nuclear reaction or nuclear radiation or radioactive contamination is insured against by this policy.

2. **Nuclear Clause (Applicable only in New York):** This policy does not cover loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under this policy.

3. **Nuclear Exclusion (Not Applicable in New York):** Loss by nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing is not insured against by this policy, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by any of the perils insured against by this policy; and nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled is not "explosion" or "smoke". This clause applies to all perils insured against hereunder except the peril of fire, which is otherwise provided for in the nuclear clause above.

2. This policy does not insure under this form against loss caused by:

**A.** wear and tear, deterioration, rust or corrosion, mold, wet or dry rot; inherent or latent defect; smog; smoke, vapor or gas from agricultural or industrial operations; mechanical breakdown, including rupture or bursting caused by centrifugal force; settling, cracking, shrinkage, bulging or expansion of pavements, foundations, walls, floors, roofs or ceilings; animals, birds, vermin, termites or other insects; unless loss by a peril not otherwise excluded ensues and then this Company shall be liable for only such ensuing loss;

**B.** explosion of steam boilers, steam pipes, steam turbines or steam engines (except direct loss resulting from the explosion of accumulated gases or unconsumed fuel within the firebox, or combustion chamber, of any fired vessel or within the flues or passages which conduct the gases of combustion therefrom) if owned by, leased by or

operated under the control of the named Insured, or for any ensuing loss except by fire or explosion not otherwise excluded, and then this Company shall be liable for only such ensuing loss;

**C.** vandalism, malicious mischief, theft or attempted theft, if the building had been vacant or unoccupied beyond a period of 30 consecutive days immediately preceding the loss, unless loss by a peril not otherwise excluded in this policy ensues, and then this Company shall be liable for only such ensuing loss; nor shall this exclusion be applicable to such unoccupancy as is usual or incidental to the described occupancy;

**D.** leakage or overflow from plumbing, heating, air conditioning or other equipment or appliances (except fire protective systems) caused by or resulting from freezing while the building is vacant or unoccupied, unless the named Insured shall have exercised due diligence with respect to maintaining heat in the buildings or unless such equipment and appliances had been drained and the water supply shut off during such vacancy or unoccupancy;

**E.** theft (including but not limited to burglary and robbery) of any property which at the time of loss is not installed or attached to and made a part of a building or structure (except direct loss by pillage and looting occurring during and at the immediate place of a riot or civil commotion), unless loss by a peril not otherwise excluded in this policy ensues from theft or attempted theft, and then this Company shall be liable for only such ensuing loss;

**F.** unexplained or mysterious disappearance of any property, or shortage disclosed on taking inventory, or caused by any willful or dishonest act or omission of the named Insured or any associate, employee or agent of any Insured; or

**G.** continuous or repeated seepage or leakage of water or steam from within a plumbing, heating or air conditioning system or from within a domestic appliance which occurs over a period of weeks, months or years.

**H.** collapse, except as provided above in the Collapse Additional Coverage. If a peril not otherwise excluded ensues on the described premises, this Company will pay only for loss caused by the ensuing peril.

3. This policy does not insure under this form against loss occasioned directly or indirectly by any electrical injury or disturbance to electrical appliances, devices, fixtures or wiring caused by electrical currents artificially generated unless fire as insured against ensues, and then this Company shall be liable only for loss caused by the ensuing fire.

4. This policy does not insure against loss caused by any of the following. However, any ensuing loss not excluded or excepted in this policy is covered.

**A.** Weather conditions. However, this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in paragraph 1. above to produce the loss;

**B.** Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body;

**C.** Faulty, inadequate or defective:

1. planning, zoning, development, surveying, siting;

2. design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;

3. materials used in repair, construction, renovation or remodeling; or

4. maintenance;

of part or all of any property on or off the described premises.

## SECTION X—OTHER PROVISIONS

### 1. OTHER INSURANCE:

A. If at the time of loss there is other insurance written in the name of the Insured upon the same plan, terms, conditions and provisions as contained in this policy, herein referred to as Contributing Insurance, this Company shall be liable for no greater proportion of any loss than the amount of insurance under this policy bears to the whole amount of insurance covering such loss.

B. If at the time of loss there is other insurance other than that as described in A. above, this Company shall not be liable for any loss hereunder until:

- (1) the Liability of such other insurance has been exhausted, and
- (2) then for only such amount as may exceed the amount due from such other insurance whether collectible or not.

2. **CONTROL OF PROPERTY:** This insurance shall not be prejudiced by any act or neglect of any person (other than the named Insured), when such act or neglect is not within the control of the named Insured.

3. **DIVISIBLE CONTRACT CLAUSE:** If this policy covers two or more buildings, the breach of any condition of the policy in any one or more of the buildings covered or containing the property covered shall not prejudice the right to recover for loss occurring in any building covered or containing the property covered, where at the time of loss a breach of condition does not exist.

4. **INSPECTION OF PROPERTY AND OPERATIONS:** This Company and any person or organization making inspections on this Company's behalf shall be permitted but not obligated to inspect the named Insured's property and operations at any time. Neither the right of this Company and any person or organization to make such inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the named Insured or others, to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule or regulation.

5. **LIBERALIZATION:** If during the period that insurance is in force under this policy, or within 45 days prior to the inception date thereof, on behalf of this Company there be adopted or filed with and approved or accepted by the insurance supervisory authorities, all in conformity with law, any changes in the form attached to this policy by which this form of insurance could be extended or broadened without increased premium charge by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the named Insured hereunder as though such endorsement or substitution of form had been made.

6. **LOSS CLAUSE:** Any loss hereunder shall not reduce the amount of this policy

7. **MORTGAGE CLAUSE (Not applicable in Minnesota):** (Applies only when policy is made payable to a named mortgagee or trustee.)

Loss or damage, if any, under this policy, shall be payable to the mortgagee (or trustee), named on the first page of this policy, as interest may appear, under all present or future mortgages upon the property herein described in which the aforesaid may have an interest as mortgagee (or trustee) in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee (or trustee) only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the within described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy; provided, that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee (or trustee) shall, on demand, pay the same.

Provided, also, that the mortgagee (or trustee) shall notify this Company of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and, unless permitted by this policy, it shall be noted thereon and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard

for the term of the use thereof; otherwise this policy shall be null and void.

This Company reserves the right to cancel this policy at any time as provided by its terms, but in such case this policy shall continue in force for the benefit only of the mortgagee (or trustee) for 10 days after notice to the mortgagee (or trustee) of such cancellation and shall then cease, and the Company shall have the right, on like notice, to cancel this agreement.

Whenever this Company shall pay the mortgagee (or trustee) any sum for loss under this policy and shall claim that, as to the mortgagor or owner, no liability therefor existed, this Company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of said mortgagee's (or trustee's) claim.

8. **PERMITS AND USE:** Except as otherwise provided, permission is granted:

A. to make alterations and repairs:

B. for such unoccupancy as is usual or incidental to the described occupancy, but vacancy is limited to the 60 day period permitted by the policy conditions ("Vacant" or "Vacancy" means containing no contents pertaining to operations or activities customary to occupancy of the building. "Unoccupied" or "Unoccupancy" means containing contents pertaining to occupancy of the building while operations or other customary activities are suspended);

C. in the event of loss hereunder, to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage, and provided further that the named Insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by any peril not otherwise excluded shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that, in case loss occurs, the named Insured shall protect the property from further damage.

9. **PROTECTIVE SAFEGUARDS:** It is a condition of this insurance that the named Insured shall maintain so far as is within his control such protective safeguards as are set forth by endorsement hereto.

Failure to maintain such protective safeguards shall suspend this insurance, only as respects the location or situation affected, for the time of such discontinuance.

### 10. SUBROGATION:

A. In the event of any payment under this policy, this Company shall be subrogated to all the named Insured's rights of recovery against any person or organization and the named Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The named Insured shall do nothing after loss to prejudice such rights.

B. This Company shall not be bound to pay any loss if the named Insured has impaired any right of recovery for loss; however, it is agreed that the named Insured may, as respects property while on the premises of the named Insured, release others in writing from liability for loss prior to loss, and such release shall not affect the right of the named Insured to recover hereunder.

11. **NO BENEFIT TO BAILEE:** This insurance shall not inure directly or indirectly to the benefit of any carrier or other bailee.

12. **REPORT TO POLICE:** When either a loss or occurrence takes place, the named Insured shall give notice thereof to the proper police authority if loss or occurrence is due to a violation of law.



1. With respect to the perils of fire or lightning, this policy insures against all loss to the property covered caused by the perils of fire or lightning.

2. The Mortgagee Clause is deleted and the following Loss Payable Clause is substituted:

**LOSS PAYABLE CLAUSE:** If a mortgagee, or mortgagees, is named on the first page of this policy or by endorsement thereto, loss, if any, on real estate is payable to such mortgagee, or mortgagees, as the interests of such mortgagee, or mortgagees, may appear in order of their priority, under any present or future mortgage, or mortgages, of the within described real estate (but in no event to exceed the amount of insurance named in the within policy).

3. Notwithstanding any provision to the contrary of any general or special law:

A. This company shall, before paying any claim for loss or damage to real property from any peril where the amount of the loss payable under this policy equals or exceeds five thousand dollars, first require the insured to submit to this company a certificate of municipal liens from the collector of taxes of the city or town wherein the property is located.

B. This company shall pay to the city or town any amount shown as outstanding on the certificate of municipal liens arising from the provisions of Chapters 40 Power and Duties of Cities and Towns, 59 Assessment of Local Taxes, 60 Taxation, 80 Betterments and 83 Sewers, Drains and Sidewalks of the Massachusetts General Law, to the extent of the amount of loss payable under this policy.

C. The claim of the city or town for such amounts shall have priority over the claim of any insured owner, mortgagee, assignee or other interested party except where otherwise provided by the laws of the United States.

D. This company shall not be liable to any insured owner, mortgagee, assignee, city or town, or other interested party for amounts disbursed to a city or town or for amounts not disbursed to the city or town based upon a certificate indicating the nonexistence of any municipal liens.

E. Paragraphs 3.A, 3.B, 3.C and 3.D above shall not apply to any **owner occupied one, two, three or four family dwelling** if the owner of said dwelling was domiciled therein at the time the claim for loss or damage arose.

4. This company shall not pay any claim covering:

(a) Any loss, damage, or destruction to a building or other structure, amounting to one thousand dollars or more, or

(b) Any loss, damage, or destruction of any amount, which causes the condition of a building or other structure to become dangerous to life or limb or to become unused, uninhabited or abandoned and open to the weather as provided under Section 6 of Chapter 143 of the Massachusetts General Laws,

without having at least ten days previously, given written notice to the Building Commissioner or the appointed Inspector of Buildings, and to the Board of Health or the Board of Selectmen of the city or town in which the property is located.

If at any time prior to payment the city or town notifies this Company by certified mail of its intent to initiate proceedings designed to perfect a lien pursuant to Massachusetts General Law:

(1) **Chapter 143 Public Safety and Good Order**

(a) Section 3A—enforcement of State building code as to structures or buildings;

(b) Section 9—penalties for refusal to remove or repair dangerous or abandoned structures or buildings; or

(2) **Chapter 111 Public Health**

Section 127B—authority of the Board of Health to recondition or demolish the unfitted dwelling for human habitation, premises or structure,

the said payment shall not be made while the said proceedings are pending; provided, however, that the said proceedings are initiated within thirty days of receipt of such notification.

Any lien perfected pursuant to the Massachusetts General Laws referred to in the preceding paragraph shall extend to and may be enforced by the city or town against the proceeds of this policy.

This Company shall not be liable to any insured owner, mortgagee, assignee, city or town, or other interested party for amounts disbursed to a city or town, or for amounts not disbursed to a city or town under the above provisions.

5. The numbered line provisions of this policy are amended by adding the following before the “,or” in line 37:

for residential premises of three units or less and thirty (30) consecutive days for all other premises

6. The provisions of the policy pertaining to vacancy or unoccupancy are amended to include the following limitation:

This Company shall not be liable for loss caused by fire or lightning occurring while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty (60) consecutive days for residential premises of three units or less and thirty (30) consecutive days for all other premises.

7. The cancellation provisions of this policy are replaced by the following:

This policy shall be cancelled at any time at the request of the insured, in which case this company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by this company by giving to the insured a five days written notice of cancellation, and to the mortgagee to whom this policy is payable twenty days' written notice of cancellation except where the stated reason for cancellation is nonpayment of premium where, in such instance, this policy may be cancelled at any time by this company by giving to the insured a ten days written notice of cancellation, and the mortgagee a twenty days written notice of cancellation, with or without tender of the excess paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand and shall state or be accompanied by a statement of the specific reason or reasons for such cancellation. After this policy has been in effect for sixty days, or after sixty days from any anniversary date, no notice of cancellation shall be effective unless it is based on the occurrence, after the effective date of the policy, of one or more of the following: (1) nonpayment of premium; (2) conviction of a crime arising out of acts increasing the hazard insured against; (3) discovery of fraud or material misrepresentation by the insured in obtaining the policy; (4) discovery of willful or reckless acts or omissions by the insured increasing the hazard insured against; (5) physical changes in the property insured which result in the property becoming uninsurable; or (6) a determination by the commissioner that continuation of the policy would violate or place the insurer in violation of the law. Where the stated reason is nonpayment of premium, the insured may continue the coverage and avoid the effect of the cancellation by payment at any time prior to the effective date of cancellation.

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8. The provisions of the policy pertaining to requirements in case of loss or damage are replaced by the following:

The insured shall give immediate written notice to this company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed and damaged property, showing in detail the quantity, description, actual cash value and amount of loss claimed; and the insured shall forthwith render to this company a signed, sworn statement in proof of loss which sets forth to the best knowledge and belief of the insured the following: the time and cause of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes

in the title, use, occupancy, location, possession or exposures of said property, since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and detailed estimates for repair of the damage. The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and submit to examinations under oath by any person named by this company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made.



### **EFFECTIVE TIME ENDORSEMENT**

The time of inception and the time of expiration of this policy and of any schedule or endorsement attached shall be 12:01 a.m. standard time. To the extent that coverage in this policy replaces coverage in other policies terminating noon standard time on the inception date of this policy, coverage under this policy shall not become effective until such other coverage has terminated.



**DEDUCTIBLE CLAUSE No. 1**  
(Maximum \$3,000 Deductible)

**CF 03 46**  
(Ed. 05 77)

<b>COMPANY</b> United States Fidelity and Guaranty Company	<b>POLICY NO.</b> MP 091697221	<b>AGENCY</b> Boyle Ins. Agcy., Inc.
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**Building Only**

1. This Company shall be liable only when the whole loss exceeds \$ 1,000. and then for only the amount of such excess, but, in the event there is any other insurance covering the property (or which would have covered the property except for the existence of this insurance) against the peril(s) which caused the loss (whether collectible or not), then this Company shall be liable for only its proportion of the amount of such excess. Such proportion shall be determined in the same manner as this Company's proportion of the whole loss would be determined.
2. The "whole loss" as used herein is defined as the amount which would be recoverable under this policy and any other insurance covering the property (or which would have covered the property except for the existence of this insurance), against the peril(s) which caused the loss (whether collectible or not), in any one occurrence, disregarding this deductible clause and any other deductible provisions in this policy or in such other insurance policies.
3. If this policy covers on two or more items of insurance, the provisions of this deductible clause shall apply separately to each item to which this deductible clause applies.
4. The provisions of this deductible clause shall supersede any other deductible provisions in the policy to which this deductible clause is attached, except, if this policy insures against loss by earthquake, the provisions of this deductible clause shall not apply to the amount of such loss recoverable under this policy.

**THIS CLAUSE VOID**

This Endorsement must be attached to Change Endorsement when issued after the Policy is written.

**CF 03 46** (Ed. 05 77)

EPA0238

0097-0341

**AMENDATORY ENDORSEMENT  
PREJUDGMENT INTEREST**

The following is added to the Supplementary Payments provision in this policy:

The Company will pay, in addition to the applicable limit of liability, prejudgment interest awarded against the **insured** on that part of the judgment the Company pays. If the Company makes an offer to pay the applicable limit of its liability, the Company will not pay any prejudgment interest based on that period of time after the offer.

EPA0239



## AMENDATORY ENDORSEMENT

In consideration of the premium charged, this endorsement is made a part of this policy.

### 1. Personal Property of the Insured:

The following words are deleted from the Coverage B—Personal Property of the Insured definition:

“usual to the occupancy of the named Insured”.

### 2. Subrogation:

The following clause is substituted for the Subrogation Clause:

**Subrogation Waiver Clause:** This insurance shall not be invalidated should the Insured waive in writing any or all right of recovery against any party for loss. Provided, however, that in the event the Insured waives only a part of his rights against any particular third party, this Company shall be subrogated with respect to all rights of recovery which the Insured may retain against any such third party for loss from the perils insured against to the extent that payment therefor is made by this Company; all subject to the following additional provisions:

- (a) If made before loss has occurred, such agreement may run in favor of any third party;
- (b) If made after loss has occurred, such agreement may run only in favor of a third party falling within one of the following categories at the time of loss:
  - (1) A third party insured under this policy; or
  - (2) A corporation, firm, or entity (a) owned or controlled by the named Insured or in which the named Insured owns capital stock or other proprietary interest, or (b) owning or controlling the named Insured or owning or controlling capital stock or other proprietary interest in the named Insured; or
  - (3) A tenant of the named Insured.

### 3. Permits and Use:

The following clause is substituted for the Permits and Use Clause:

**Permits and Use:** Except as otherwise provided, permission is granted:

- A. To make additions, alterations and repairs. This policy, insofar as it covers building(s) or structure(s), is extended to cover additions, alterations and repairs, when not otherwise covered by insurance, including temporary structures constructed on site, materials, equipment and supplies therefor on or within 100 feet of the described premises; and this policy, insofar as it covers contents, is extended to cover in such additions. This provision does not waive or modify any of the conditions of the Automatic Sprinkler Clause, if any, attached to this policy.
- B. For such unoccupancy as is usual or incidental to the described occupancy (“unoccupied” or “unoccupancy” means containing contents

pertaining to the occupancy of the building while operations or other customary activities are suspended).

- C. For the described building(s) to be vacant without limit of time, subject to a 15% reduction in the amount of loss payment otherwise due under this policy while the involved building(s) is vacant beyond a period of 60 consecutive days. This penalty will not be applicable during the period of any extension whereby the 60 day period is extended by endorsement.

(“Vacant” or “Vacancy” means containing no contents pertaining to operations or activities customary to occupancy of the building. A building in the course of construction shall not be considered vacant.)

These provisions do not apply to the perils of vandalism or malicious mischief or sprinkler leakage.

- D. For increased hazards and for change in use or occupancy.
- E. Without prejudice to this insurance, for there to be errors in stating the name, number, street or location of any building(s) covered hereunder, or of building(s) and personal property if covered under a single item of insurance, where there is no wilful concealment or misrepresentation.
- F. In the event of loss hereunder, to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage, and provided further that the named Insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by any peril insured hereunder shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that, in case loss occurs, the named Insured shall protect the property from further damage.

### 4. Extensions of Coverage:

In the General Property Form, the following is substituted for the first paragraph under Section III—Extensions of Coverage, Item 3. Newly Acquired Property:

#### Newly Acquired Property

- A. The named Insured may apply up to 25% of the amount of insurance for Coverage A—Building(s) to cover direct loss by a peril insured against to the following described property:

In the Special Building Form, the following words are deleted from Item A. Newly Acquired Property under Section IV—Extensions of Coverage:

“but not exceeding \$ 100,000”

**ATTACH FORMS FOR PRECEDING DIVISION**

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H. O. EVIDENCE

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P.D. DEDUCTIBLE

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# MASTER INSURANCE POLICY

## DIVISION II LIABILITY COVERAGE

Forming part of Policy No. MP <u>091697221</u> Previous Policy No. <u>MP 064063384</u>	Branch Office and Agent <b>Boston, MA</b>  Boyle Ins. Agency, Inc. Woburn, MA 01801  1-07-4323		
Issued By <u>United States Fidelity and Guaranty Company</u> (Company)			
Named Insured and P. O. Address (No., Street, Town, County, State, Zip Code) <u>Clifford C. &amp; Grace E. Boutwell d/b/a Aberjona Auto Parts</u> <u>278 Salem Street</u> <u>Woburn, MA 01801</u>			
Policy Term: <u>1</u> Years	<u>8-1-86</u> Inception (Mo. Day Yr.)	<u>8-1-87</u> Expiration (Mo. Day Yr.)	12:00 Noon, standard time at the address of the Named Insured as stated herein.

### DECLARATIONS

Business of the Named Insured is Auto Parts Store

The Named Insured is:  Individual  Partnership  Corporation  Joint Venture  Other (specify)

The insurance afforded is only with respect to such of the following Coverage Parts and Coverages as are indicated by a limit of liability. The limit of the Company's liability against each such Coverage shall be as stated herein, subject to all the terms of this policy having reference thereto.

COVERAGE PARTS	COVERAGES	LIMITS OF LIABILITY	ADVANCE PREMIUMS
Comprehensive - General Liability Insurance	A. Bodily Injury Liability	\$ 1,000,000 each occurrence \$ 1,000,000 aggregate	\$ 6,724.00
	B. Property Damage Liability	\$ 250,000 each occurrence \$ 250,000 aggregate	\$ 1,620.00
Premises Medical Payments Insurance	E. Premises Medical Payments	\$ _____ each person \$ _____,000 each accident	\$
Contractual Liability Insurance	See Coverage Part for Coverages and Limits of Liability		\$
			\$
			\$
			\$
			\$

Form numbers of endorsements applicable to this Division at issuance (other than those entered on Coverage Parts):

GL 0100, GL 0114, Cas.95, GL 0404, GL 0032, GLC 2103, IL 0928

Audit Period: Annual, unless otherwise designated below.

Semi-annually  Quarterly  Monthly

Total Advance Premium \$ 8,344.00

# MASTER INSURANCE POLICY

## DIVISION II—LIABILITY COVERAGE

In consideration of the payment of the premium, in reliance upon the statements in the declarations made a part hereof and subject to all of the terms of this policy, the Company agrees with the Named Insured as follows:

### DEFINITIONS

When used in this policy (including endorsements forming a part hereof):

**"automobile"** means a land motor vehicle, trailer or semi-trailer designed for travel on public roads (including any machinery or apparatus attached thereto), but does not include mobile equipment;

**"bodily injury"** means bodily injury, sickness or disease sustained by any person which occurs during the policy period, including death at any time resulting therefrom.

**"completed operations hazard"** includes bodily injury and property damage arising out of operations or reliance upon a representation or warranty made at any time with respect thereto, but only if the bodily injury or property damage occurs after such operations have been completed or abandoned and occurs away from premises owned by or rented to the Named Insured. "Operations" include materials, parts or equipment furnished in connection therewith. Operations shall be deemed completed at the earliest of the following times:

- (1) when all operations to be performed by or on behalf of the Named Insured under the contract have been completed,
- (2) when all operations to be performed by or on behalf of the Named Insured at the site of the operations have been completed, or
- (3) when the portion of the 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.

Operations which may require further service or maintenance work, or correction, repair or replacement because of any defect or deficiency, but which are otherwise complete, shall be deemed completed.

The completed operations hazard does not include bodily injury or property damage arising out of

- (a) operations in connection with the transportation of property, unless the bodily injury or property damage arises out of a condition in or on a vehicle created by the loading or unloading thereof.
- (b) the existence of tools, uninstalled equipment or abandoned or unused materials, or
- (c) operations for which the classification stated in the policy or in the Company's manual specifies "including completed operations";

**"elevator"** means any hoisting or lowering device to connect floors or landings whether or not in service, and all appliances thereof including any car, platform, shaft, hoistway, stairway, runway, power equipment and machinery; but does not include an automobile servicing hoist, or a hoist without a platform outside a building if without mechanical power or if not attached to building walls, or a hod or material hoist used in alteration, construction or demolition operations, or an inclined conveyor used exclusively for carrying property or a dumbwaiter used exclusively for carrying property and having a compartment height not exceeding four feet;

**"incidental contract"** means any written (1) lease of premises, (2) easement agreement, except in connection with construction or demolition operations on or adjacent to a railroad, (3) undertaking to indemnify a municipality required by municipal ordinance except in connection with work for the municipality, (4) sidetrack agreement, or (5) elevator maintenance agreement;

**"Insured"** means any person or organization qualifying as an Insured in the "Persons Insured" provision of the applicable insurance coverage. The insurance afforded applies separately to each Insured against whom claim is made or suit is brought, except with respect to the limits of the Company's liability;

**"mobile equipment"** means a land vehicle (including any machinery or apparatus attached thereto), whether or not self-propelled, (1) not subject to motor vehicle registration, or (2) maintained for use exclusively on premises owned by or rented to the Named Insured, including the ways immediately adjoining, or (3) designed for use principally off public roads, or (4) designed or maintained for the sole purpose of affording mobility to equipment of the following types forming an integral part of or permanently attached to such vehicle: power cranes, shovels, loaders, diggers and drills; concrete mixers (other than the mix-in-transit type); graders, scrapers, rollers and other road construction or repair equipment; air-compressors, pumps and generators, including spraying, welding and building cleaning equipment; and geophysical exploration and well servicing equipment;

**"Named Insured"** means the person or organization named in Item 1. of the declarations of this policy;

**"Named Insured's products"** means goods or products manufactured, sold, handled or distributed by the Named Insured or by others trading under his name, including any container thereof (other than a vehicle), but "Named Insured's products" shall not include a vending machine or any property other than such container, rented to or located for use of others but not sold,

(continued on reverse side)

**"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**;

**"policy territory"** means:

- (1) the United States of America, its territories or possessions, or Canada, or
- (2) international waters or air space, provided the **bodily injury** or **property damage** does not occur in the course of travel or transportation to or from any other country, state or nation, or
- (3) anywhere in the world with respect to damages because of **bodily injury** or **property damage** arising out of a product which was sold for use or consumption within the territory described in paragraph (1) above, provided the

original suit for such damages is brought within such territory;

**"products hazard"** includes **bodily injury** and **property damage** arising out of the **Named Insured's** products or reliance upon a representation or warranty made at any time with respect thereto, but only if the **bodily injury** or **property damage** occurs away from premises owned by or rented to the **Named Insured** and after physical possession of such products has been relinquished to others;

**"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.

## SUPPLEMENTARY PAYMENTS

The Company will pay, in addition to the applicable limit of liability:

- (a) all expenses incurred by the Company, all costs taxed against the **Insured** in any suit defended by the Company and all interest on the entire amount of any judgment therein which accrues after entry of the judgment and before the Company has paid or tendered or deposited in court that part of the judgment which does not exceed the limit of the Company's liability thereon;
- (b) premiums on appeal bonds required in any such suit, premiums on bonds to release attachments in any such suit for an amount not in excess of the applicable limit of liability of this policy, and the cost of bail bonds required

of the **Insured** because of accident or traffic law violation arising out of the use of any vehicle to which this policy applies, not to exceed \$250 per bail bond, but the Company shall have no obligation to apply for or furnish any such bonds;

- (c) expenses incurred by the **Insured** for first aid to others at the time of an accident, for **bodily injury** to which this policy applies;
- (d) reasonable expenses incurred by the **Insured** at the Company's request in assisting the Company in the investigation or defense of any claim or suit, including actual loss of earnings not to exceed \$25 per day.

## CONDITIONS

**1. Premium** All premiums for this policy shall be computed in accordance with the Company's rules, rates, rating plans, premiums and minimum premiums applicable to the insurance afforded herein.

Premium designated in this policy as "advance premium" is a deposit premium only which shall be credited to the amount of the earned premium due at the end of the policy period. At the close of each period (or part thereof terminating with the end of the policy period) designated in the declarations as the audit period the earned premium shall be computed for such period and, upon notice thereof to the **Named Insured**, shall become due and payable. If the total earned premium for the policy period is less than the premium previously paid, the Company shall return to the **Named Insured** the unearned portion paid by the **Named Insured**.

The **Named Insured** shall maintain records of such information as is necessary for premium computation, and shall send copies of such records to the Company at the end of the policy period and at such times during the policy period as the Company may direct.

**2. Inspection and Audit** The Company shall be permitted but not obligated to inspect the **Named Insured's** property and operations at any time. Neither the Company's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the **Named Insured** or others, to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule or regulation.

The Company may examine and audit the **Named Insured's** books and records at any time during the policy period and extensions thereof and within three years after the final termination of this policy, as far as they relate to the subject matter of this insurance.

**3. Financial Responsibility Laws** When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, such insurance as is afforded by this policy for **bodily injury** liability or for **property damage** liability shall comply with the provisions of such law to the extent of the coverage and limits of liability required by

such law. The **Insured** agrees to reimburse the Company for any payment made by the Company which it would not have been obligated to make under the terms of this policy except for the agreement contained in this paragraph.

#### 4. **Insured's Duties in the Event of Occurrence, Claim or Suit**

- (a) In the event of an **occurrence**, written notice containing particulars sufficient to identify the **Insured** and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of available witnesses, shall be given by or for the **Insured** to the Company or any of its authorized agents as soon as practicable.
- (b) If claim is made or suit is brought against the **Insured**, the **Insured** shall immediately forward to the Company every demand, notice, summons or other process received by him or his representative.
- (c) The **Insured** shall cooperate with the Company and, upon the Company's request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the **Insured** because of injury or damage with respect to which insurance is afforded under this policy; and the **Insured** shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The **Insured** shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense other than for first aid to others at the time of accident.

**5. Action Against Company** No action shall lie against the Company unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this policy, nor until the amount of the **Insured's** obligation to pay shall have been finally determined either by judgment against the **Insured** after actual trial or by written agreement of the **Insured**, the claimant and the Company.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the Company as a party to any action against the **Insured** to determine the **Insured's** liability, nor shall the Company be impleaded by the **Insured** or his legal representative. Bankruptcy or insolvency of the **Insured** or of the **Insured's** estate shall not relieve the Company of any of its obligations hereunder.

**6. Other Insurance** The insurance afforded by this policy is primary insurance, except when stated to apply in excess of or contingent upon the absence of other insurance. When this insurance is primary and the **Insured** has other insurance which is stated to be applicable to the loss on an excess or contingent basis, the amount of the Company's liability under this policy shall not be reduced by the existence of such other insurance.

When both this insurance and other insurance apply to the loss on the same basis, whether primary, excess or contin-

gent, the Company shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

- (a) **Contribution by Equal Shares.** If all of such other valid and collectible insurance provides for contribution by equal shares, the Company shall not be liable for a greater proportion of such loss than would be payable if each insurer contributes an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid, and with respect to any amount of loss not so paid the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.
- (b) **Contribution by Limits.** If any of such other insurance does not provide for contribution by equal shares, the Company shall not be liable for a greater proportion of such 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.

**7. Subrogation** In the event of any payment under this policy, the Company shall be subrogated to all the **Insured's** rights of recovery therefor against any person or organization and the **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing after loss to prejudice such rights.

**8. Changes** Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the Company from asserting any right under the terms of this policy; nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy signed by an authorized representative of the Company.

**9. Assignment** Assignment of interest under this policy shall not bind the Company until its consent is endorsed hereon; if, however, the **Named Insured** shall die, such insurance as is afforded by this policy shall apply (1) to the **Named Insured's** legal representative, as the **Named Insured**, but only while acting within the scope of his duties as such, and (2) with respect to the property of the **Named Insured**, to the person having proper temporary custody thereof, as **Insured**, but only until the appointment and qualification of the legal representative.

**10. Three Year Policy** If this policy is issued for a period of three years, any limit of the Company's liability stated in this policy as "aggregate" shall apply separately to each consecutive annual period thereof.

**11. Declarations** By acceptance of this policy, the **Named Insured** agrees that the statements in the declarations are his agreements and representations, that this policy is issued in reliance upon the truth of such representations and that this policy embodies all agreements existing between himself and the Company or any of its agents relating to this insurance.

## NUCLEAR ENERGY LIABILITY EXCLUSION

(Applicable to all coverages except Comprehensive Personal, Farmer's Comprehensive Personal, and Family Automobile)

### I. This policy does not apply:

#### A. Under any Liability Coverage, to **bodily injury or property damage**

- (1) with respect to which an **Insured** under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
- (2) resulting from the **hazardous properties of nuclear material** and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the **Insured** is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

#### B. Under any Medical Payments Coverage, or under any Supplementary Payments provision relating to first aid, to expenses incurred with respect to **bodily injury** resulting from the **hazardous properties of nuclear material** and arising out of the operation of a **nuclear facility** by any person or organization.

#### C. Under any Liability Coverage, to **bodily injury or property damage** resulting from the **hazardous properties of nuclear material**, if

- (1) the **nuclear material** (a) is at any **nuclear facility** owned by, or operated by or on behalf of, an **Insured** or (b) has been discharged or dispersed therefrom;
- (2) the **nuclear material** is contained in **spent fuel or waste** at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an **Insured**; or
- (3) the **bodily injury or property damage** arises out of the furnishing by an **Insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to **property damage** to such **nuclear facility** and any property thereat.

### II. As used in this exclusion:

**"hazardous properties"** include radioactive, toxic or explosive properties;

**"nuclear material"** means **source material, special nuclear material or byproduct material**;

**"source material"**, **"special nuclear material"**, and **"byproduct material"** have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof,

**"spent fuel"** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**;

**"waste"** means any waste material

(a) containing **byproduct material** other than the tailings or **wastes** produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **source material** content, and

(b) resulting from the operation by any person or organization of any **nuclear facility** included under the first two paragraphs of the definition of **nuclear facility**;

**"nuclear facility"** means

(a) any **nuclear reactor**,

(b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing **spent fuel**, or (3) handling, processing or packaging **waste**,

(c) any equipment or device used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the **Insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **waste**,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

**"nuclear reactor"** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

**"property damage"** includes all forms of radioactive contamination of property.

**COVERAGE PART:**

**COMPREHENSIVE GENERAL LIABILITY INSURANCE**

Forming a part of Policy

No. **MP 091697221**

Schedule

See Supplementary Schedule.

Description of Hazards *See Note Below <small>The rating classifications below do not modify the exclusions or other terms of this insurance.</small>	Code No.	Premium Bases	Rates		Advance Premiums	
			Bodily Injury	Property Damage	Bodily Injury	Property Damage
Premises - Operations (Subline M&C 313. OLT 314)		(a) Area (Sq. Ft.) (b) Receipts (c) Remuneration	(a) Per 100 Sq. Ft. of Area (b) Per \$100 of Receipts (c) Per \$100 of Remuneration			
Automobile dismantling-including salvage or junking or parts and store operations.	<u>75490</u>	c) 113,000	2.339	.223	2,643.00	252.00
Broad Form CGL - GL 0404	<u>99990</u>				877.00	211.00
Escalators (Subline 314)		Number	Per Landing			
Independent Contractors (Subline 315)		Cost	Per \$100 of Cost			
If any, to be det. at audit						
Completed Operations (Subline 316)		Receipts	Per \$1,000 of Receipts			
If any, to be det. at audit						
Products (Subline 316)		Receipts	Per \$1,000 of Receipts			
Automobile Parts	<u>59993</u>	900,000	3.560	1.285	3,204.00	1,157.00
Endorsement Nos.		Increased Limits Basic Charge (Subline 325. Code No. 99901)			\$	\$
		<b>Total Advance Premiums</b>			\$ 6,724.00	\$ 1,620.00

Location of all premises owned by, rented to or controlled by the **Named Insured** (if other than address shown in Item 1 of declarations):

0097-0350

Interest of **Named Insured** in such premises:  Owner  General Lessee  Tenant  Other (Specify)

Part occupied by **Named Insured**: Entire

EPA0247

The foregoing discloses all hazards insured hereunder known to exist at the effective date of this policy, unless otherwise stated herein:

**No Exceptions**

\*Premium for insured hazards not specifically rated herein will be determined by audit and charged accordingly.

**I COVERAGE A—BODILY INJURY LIABILITY**

**COVERAGE B—PROPERTY DAMAGE LIABILITY**

The Company will pay on behalf of the **Insured** all sums which the **Insured** shall become legally obligated to pay as damages because of

- A. bodily injury or
- B. property damage

to which this insurance applies, caused by an **occurrence**, and the Company shall have the right and duty to defend any suit against the **Insured** seeking damages on account of such **bodily injury or property damage**, even if any of the allegations of the suit are groundless,

false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the Company shall not be obligated to pay any claim or judgment or to defend any suit after the applicable limit of the Company's liability has been exhausted by payment of judgments or settlements.

**Exclusions**

This insurance does not apply:

- (a) to liability assumed by the **Insured** under any contract or agreement except an **incidental contract**; but this exclusion does not apply to a warranty of fitness or quality of the **Named Insured's products** or a warranty that work performed by or on behalf of the **Named Insured** will be done in a workmanlike manner;

(Continued on reverse side)

(b) to **bodily injury** or **property damage** arising out of the ownership, maintenance, operation, use, loading or unloading of

(1) any **automobile** or aircraft owned or operated by or rented or loaned to any **Insured**, or

(2) any other **automobile** or aircraft operated by any person in the course of his employment by any **Insured**;

but this exclusion does not apply to the parking of an **automobile** on premises owned by, rented to or controlled by the **Named Insured** or the ways immediately adjoining, if such **automobile** is not owned by or rented or loaned to any **Insured**;

(c) to **bodily injury** or **property damage** arising out of (1) the ownership, maintenance, operation, use, loading or unloading of any **mobile equipment** while being used in any prearranged or organized racing, speed or demolition contest or in any stunting activity or in practice or preparation for any such contest or activity or (2) the operation or use of any **snowmobile** or trailer designed for use therewith;

(d) to **bodily injury** or **property damage** arising out of and in the course of the transportation of **mobile equipment** by an **automobile** owned or operated by or rented or loaned to any **Insured**;

(e) to **bodily injury** or **property damage** arising out of the ownership, maintenance, operation, use, loading or unloading of

(1) any watercraft owned or operated by or rented or loaned to any **Insured**, or

(2) any other watercraft operated by any person in the course of his employment by any **Insured**;

but this exclusion does not apply to watercraft while ashore on premises owned by, rented to or controlled by the **Named Insured**;

(f) to **bodily injury** or **property damage** arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water; but this exclusion does not apply if such discharge, dispersal, release or escape is sudden and accidental;

(g) to **bodily injury** or **property damage** due to war, whether or not declared, civil war, insurrection, rebellion or revolution or to any act or condition incident to any of the foregoing, with respect to

(1) liability assumed by the **Insured** under an **incidental contract**, or

(2) expenses for first aid under the Supplementary Payments provision;

(h) to **bodily injury** or **property damage** for which the **Insured** or his indemnitee may be held liable

(1) as a person or organization engaged in the business of manufacturing, distributing, selling or serving alcoholic beverages, or

(2) if not so engaged, as an owner or lessor of premises used for such purposes, if such liability is imposed

(i) by, or because of the violation of, any statute, ordinance or regulation pertaining to the sale, gift, distribution or use of any alcoholic beverage, or

(ii) by reason of the selling, serving or giving of any alcoholic beverage to a minor or to a person under the influence of alcohol or which causes or contributes to the intoxication of any person;

but part (h) of this exclusion does not apply with respect to liability of the **Insured** or his indemnitee as an owner or lessor described in (2) above;

(i) to any obligation for which the **Insured** or any carrier as his insurer may be held liable under any workmen's compensation, unemployment compensation or disability benefits law, or under any similar law;

(j) to **bodily injury** to any employee of the **Insured** arising out of and in the course of his employment by the **Insured** or to any obligation of the **Insured** to indemnify another because of damages arising out of such injury; but this exclusion does not apply to liability assumed by the **Insured** under an **incidental contract**;

(k) to **property damage** to

(1) property owned or occupied by or rented to the **Insured**,

(2) property used by the **Insured**, or

(3) property in the care, custody or control of the **Insured** or as to which the **Insured** is for any purpose exercising physical control;

but parts (2) and (3) of this exclusion do not apply with respect to liability under a written sidetrack agreement and part (3) of this exclusion does not apply with respect to **property damage** (other than to **elevators**) arising out of the use of an **elevator** at premises owned by, rented to or controlled by the **Named Insured**;

(l) to **property damage** to premises alienated by the **Named Insured** arising out of such premises or any part thereof;

(m) to loss of use of tangible property which has not been physically injured or destroyed resulting from

(1) a delay in or lack of performance by or on behalf of the **Named Insured** of any contract or agreement, or

(2) the failure of the **Named Insured's products** or work performed by or on behalf of the **Named Insured** to meet the level of performance, quality, fitness or durability warranted or represented by the **Named Insured**;

but this exclusion does not apply to loss of use of other tangible property resulting from the sudden and accidental physical injury to or destruction of the **Named Insured's products** or work performed by or on behalf of the **Named Insured** after such products or work have been put to use by any person or organization other than an **Insured**;

(n) to **property damage** to the **Named Insured's products** arising out of such products or any part of such products;

(o) to **property damage** to work performed by or on behalf of the **Named Insured** arising out of the work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith;

(p) to damages claimed for the withdrawal, inspection, repair, replacement, or loss of use of the **Named Insured's products** or work completed by or for the **Named Insured** or of any property of which such products or work form a part, if such products, work or property are withdrawn from the market or from use because of any known or suspected defect or deficiency therein.

## II PERSONS INSURED

Each of the following is an **Insured** under this insurance to the extent set forth below:

(a) if the **Named Insured** is designated in the declarations as an individual, the person so designated but only with respect to the conduct of a business of which he is the sole proprietor, and the spouse of the **Named Insured** with respect to the conduct of such a business;

(b) if the **Named Insured** is designated in the declarations as a partnership or joint venture, the partnership or joint venture so designated and any partner or member thereof but only with respect to his liability as such;

(c) if the **Named Insured** is designated in the declarations as other than an individual, partnership or joint venture, the organization so designated and any executive officer, director or stockholder thereof while acting within the scope of his duties as such;

(d) any person (other than an employee of the **Named Insured**) or organization while acting as real estate manager for the **Named Insured**; and

(e) with respect to the operation, for the purpose of locomotion upon a public highway, of **mobile equipment** registered under any motor vehicle registration law,

(i) an employee of the **Named Insured** while operating any such equipment in the course of his employment, and

(ii) any other person while operating with the permission of the **Named Insured** any such equipment registered in the name of the **Named Insured** and any person or organization legally responsible for such operation, but only if there is no other valid and collectible insurance available, either on a primary or excess basis, to such person or organization;

provided that no person or organization shall be an **Insured** under this paragraph (e) with respect to:

(1) **bodily injury** to any fellow employee of such person injured in the course of his employment, or

(2) **property damage** to property owned by, rented to, in charge of or occupied by the **Named Insured** or the employer of any person described in subparagraph (ii).

This insurance does not apply to **bodily injury** or **property damage** arising out of the conduct of any partnership or joint venture of which the **Insured** is a partner or member and which is not designated in this policy as a **Named Insured**.

## III LIMITS OF LIABILITY

Regardless of the number of (1) **Insureds** under this policy, (2) persons or organizations who sustain **bodily injury** or **property damage**, or (3) claims made or suits brought on account of **bodily injury** or **property damage**, the Company's liability is limited as follows:

**Coverage A**—The total liability of the Company for all damages, including damages for care and loss of services, because of **bodily injury** sustained by one or more persons as the result of any one **occurrence** shall not exceed the limit of **bodily injury** liability stated in the declarations as applicable to "each **occurrence**".

Subject to the above provision respecting "each **occurrence**", the total liability of the Company for all damages because of (1) all **bodily injury** included within the **completed operations hazard** and (2) all **bodily injury** included within the **products hazard** shall not exceed the limit of **bodily injury** liability stated in the declarations as "aggregate".

**Coverage B**—The total liability of the Company for all damages because of all **property damage** sustained by one or more persons or organizations as the result of any one **occurrence** shall not exceed the limit of **property damage** liability stated in the declarations as applicable to "each **occurrence**".

Subject to the above provision respecting "each **occurrence**", the total liability of the Company for all damages because of all **property damage** to which this coverage applies and described in any of the numbered subparagraphs below shall not exceed the limit of **property damage** liability stated in the declarations as "aggregate":

(1) all **property damage** arising out of premises or operations rated on a remuneration basis or contractor's equipment rated on a receipts basis, including **property damage** for which liability is assumed under any **incidental contract** relating to such premises or operations, but excluding **property damage** included in subparagraph (2) below;

(2) all **property damage** arising out of and occurring in the course of operations performed for the **Named Insured** by independent contractors and general supervision thereof by the **Named Insured**, including any such **property damage** for which liability is assumed under any **incidental contract** relating to such operations, but this subparagraph (2) does not include **property damage** arising out of maintenance or repairs at premises owned by or rented to the **Named Insured** or structural alterations at such premises which do not involve changing the size of or moving buildings or other structures;

(3) all **property damage** included within the **products hazard** and all **property damage** included within the **completed operations hazard**.

Such aggregate limit shall apply separately to the **property damage** described in subparagraphs (1), (2) and (3) above, and under subparagraphs (1) and (2), separately with respect to each project away from premises owned by or rented to the **Named Insured**.

**Coverages A and B**—For the purpose of determining the limit of the Company's liability, all **bodily injury** and **property damage** arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one **occurrence**.

## IV POLICY TERRITORY

This insurance applies only to **bodily injury** or **property damage** which occurs within the policy territory.



This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement Effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

This endorsement modifies such insurance as is afforded by the provisions of any General Liability Insurance.

**ACTION AGAINST COMPANY AMENDMENT**  
(Massachusetts)

It is agreed that the clause "nor shall the company be impleaded by the insured or his legal representative" in the Action Against Company Condition shall not apply to any right of impleader under Rule 14 of the Massachusetts Rules of Civil Procedure, 365 Massachusetts 760 (1974).



This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

This endorsement modifies such insurance as is afforded by the provisions of any General Liability Insurance.

**MOBILE EQUIPMENT**  
(Massachusetts Compulsory Liability Security Act)

It is agreed that the following additional provisions apply to **bodily injury and property damage** arising out of the ownership, maintenance, use, loading or unloading of any **mobile equipment** with respect to which insurance is required of the **named insured** under the Massachusetts Compulsory Liability Security Act. (Chapter 346, Acts of 1925):

1. Except to the extent provided in paragraph 2. below, the insurance afforded by this policy does not apply either on a primary or excess basis to **bodily injury or property damage** with respect to which any insurance (regardless of amount) is afforded under any liability coverage (compulsory or optional) of a Massachusetts Motor Vehicle Policy issued to the **named insured**.
2. If the only liability insurance applicable with respect to such **bodily injury** under such a Motor Vehicle Policy is under the compulsory coverage, the Bodily Injury Liability Coverage of this policy shall apply in excess of such insurance, but only with respect to **bodily injury** arising out of the operation or use of the **mobile equipment** other than solely for the purposes of transportation or locomotion.

**UNITED STATES FIDELITY AND GUARANTY COMPANY  
FIDELITY AND GUARANTY INSURANCE UNDERWRITERS, INC.  
FIDELITY AND GUARANTY INSURANCE COMPANY  
BALTIMORE, MARYLAND**

**DESCRIPTION OF TERMS USED AS PREMIUM BASES**

**COMPREHENSIVE GENERAL LIABILITY INSURANCE  
MANUFACTURERS AND CONTRACTORS LIABILITY INSURANCE  
OWNERS, LANDLORDS AND TENANTS LIABILITY INSURANCE  
SMP LIABILITY INSURANCE**

When used as a premium basis:

1. Comprehensive General; Owners' Landlords' and Tenants'; SMP Liability Insurance—"admissions" means the total number of persons, other than employees of the Named Insured, admitted to the event insured or to events conducted on the premises whether on paid admission tickets, complimentary tickets or passes;
2. Comprehensive General; Manufacturers' and Contractors'; Owners' Landlords' and Tenants'; SMP Liability Insurance—"cost" mean the total cost to the Named Insured with respect to operations performed for the Named Insured during the policy period by independent contractors of all work let or sub-let in connection with each specific project, including the cost of all labor, materials and equipment furnished, used or delivered for use in the execution of such work, whether furnished by the owner, contractor or subcontractor, including all fees, allowances, bonuses or commissions made, paid or due;
3. Comprehensive General; Manufacturers' and Contractors'; Owners' Landlords' and Tenants'; SMP Liability Insurance—"receipts" means the gross amount of money charged by the Named Insured, by concessionaires of the Named Insured, or by others trading under his name for goods or products sold, or operations performed, (other than receipts from telecasting, broadcasting or motion pictures) and includes taxes (other than taxes which the Named Insured, concessionaires of the Named Insured and others trading under his name collect as a separate item and remit directly to the government.
4. Comprehensive General; Manufacturers' and Contractors'; Owners, Landlords' and Tenants'; SMP Liability Insurance which includes coverage for structural alterations, new construction and demolition operations—"remuneration" means the entire remuneration earned during the policy period by proprietors and by all employees of the Named Insured, other than chauffeurs (except operators of mobile equipment) and aircraft pilots and co-pilots, subject to any overtime earnings or limitation of remuneration rule applicable in accordance with the manuals in use by the Company;

EPA0251



This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.  
(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by

(Authorized Representative)

This endorsement modifies such insurance as is afforded by the provisions of the policy relating to the following:

**COMPREHENSIVE GENERAL LIABILITY INSURANCE**

**BROAD FORM COMPREHENSIVE GENERAL LIABILITY ENDORSEMENT**

**Schedule**

Personal Injury and Advertising Injury Liability

Aggregate Limit shall be the per occurrence bodily injury liability limit unless otherwise indicated herein:

Limit of Liability \$ \_\_\_\_\_ Aggregate.

Limit of Liability—Premises Medical Payments Coverage: \$1,000 each person unless otherwise indicated herein:

\$ \_\_\_\_\_ each person.

Limit of Liability—Fire Legal Liability Coverage: \$50,000 per occurrence unless otherwise indicated herein:

\$ \_\_\_\_\_ per occurrence.

Premium Basis

Advance Premium

15 % of the Total Comprehensive General Liability  
Bodily Injury and Property Damage Premium as  
Otherwise Determined.

\$ Incl.

MINIMUM PREMIUM \$ 25.00 B.I. - \$15.00 P.D.

**I. CONTRACTUAL LIABILITY COVERAGE**

(A) The definition of **incidental contract** is extended to include any oral or written contract or agreement relating to the conduct of the **named insured's** business.

(B) The insurance afforded with respect to liability assumed under an **incidental contract** is subject to the following additional exclusions:

(1) to **bodily injury** or **property damage** for which the **insured** has assumed liability under any **incidental contract**, if such injury or damage occurred prior to the execution of the **incidental contract**;

(2) if the **insured** is an architect, engineer or surveyor, to **bodily injury** or **property damage** arising out of the rendering of or the failure to render professional services by such **insured**, including

- (a) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, and
- (b) supervisory, inspection or engineering services;

(3) if the indemnitee of the **insured** is an architect, engineer or surveyor, to the liability of the indemnitee, his agents or employees, arising out of

- (a) the preparation or approval of or the failure to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or

(b) the giving of or the failure to give directions or instructions by the indemnitee, his agents or employees, provided such giving or failure to give is the primary cause of the **bodily injury** or **property damage**;

(4) to any obligation for which the **insured** may be held liable in an action on a contract by a third party beneficiary for **bodily injury** or **property damage** arising out of a project for a public authority; but this exclusion does not apply to an action by the public authority or any other person or organization engaged in the project;

(5) to **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; but this exclusion does not apply to sidetrack agreements.

(C) The following exclusions applicable to Coverages A (Bodily Injury) and B (Property Damage) do not apply to this Contractual Liability Coverage: (b), (c) (2), (d) and (e).

(D) The following additional condition applies:

**Arbitration**

The company shall be entitled to exercise all of the **insured's** rights in the choice of arbitrators and in the conduct of any arbitration proceeding.

## II. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY COVERAGE

(A) The company will pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of personal injury or advertising injury to which this insurance applies, sustained by any person or organization and arising out of the conduct of the named insured's business, within the policy territory, and the company shall have the right and duty to defend any suit against the insured seeking damages on account of such injury, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the company shall not be obligated to pay any claim or judgment or to defend any suit after the applicable limit of the company's liability has been exhausted by payment of judgments or settlements.

(B) This insurance does not apply:

(1) to liability assumed by the insured under any contract or agreement;

(2) to personal injury or advertising injury arising out of the wilful violation of a penal statute or ordinance committed by or with the knowledge or consent of the insured;

(3) to personal injury or advertising injury arising out of a publication or utterance of a libel or slander, or a publication or utterance in violation of an individual's right of privacy, if the first injurious publication or utterance of the same or similar material by or on behalf of the named insured was made prior to the effective date of this insurance;

(4) to personal injury or advertising injury arising out of libel or slander or the publication or utterance of defamatory or disparaging material concerning any person or organization or goods, products or services, or in violation of an individual's right of privacy, made by or at the direction of the insured with knowledge of the falsity thereof;

(5) to personal injury or advertising injury arising out of the conduct of any partnership or joint venture of which the insured is a partner or member and which is not designated in the declarations of the policy as a named insured;

(6) to advertising injury arising out of

(a) failure of performance of contract, but this exclusion does not apply to the unauthorized appropriation of ideas based upon alleged breach of implied contract, or

(b) infringement of trademark, service mark or trade name, other than titles or slogans, by use thereof on or in connection with goods, products or services sold, offered for sale or advertised, or

(c) incorrect description or mistake in advertised price of goods, products or services sold, offered for sale or advertised;

(7) with respect to advertising injury

(a) to any insured in the business of advertising, broadcasting, publishing or telecasting, or

(b) to any injury arising out of any act committed by the insured with actual malice.

## (C) Limits of Liability

Regardless of the number of (1) insureds hereunder, (2) persons or organizations who sustain injury or damage, or (3) claims made or suits brought on account of personal injury or advertising injury, the total limit of the company's liability under this coverage for all damages shall not exceed the limit of liability stated in this endorsement as "aggregate".

## (D) Additional Definitions

"Advertising Injury" means injury arising out of an offense committed during the policy period occurring in the course of the named insured's advertising activities, if such injury arises out of libel, slander, defamation, violation of right of privacy, piracy, unfair competition, or infringement of copyright, title or slogan.

"Personal Injury" means injury arising out of one or more of the following offenses committed during the policy period:

(1) false arrest, detention, imprisonment, or malicious prosecution;

(2) wrongful entry or eviction or other invasion of the right of private occupancy;

(3) a publication or utterance

(a) of a libel or slander or other defamatory or disparaging material, or

(b) in violation of an individual's right of privacy; except publications or utterances in the course of or related to advertising, broadcasting, publishing or telecasting activities conducted by or on behalf of the named insured shall not be deemed personal injury.

## III. PREMISES MEDICAL PAYMENTS COVERAGE

The company will pay to or for each person who sustains bodily injury caused by accident all reasonable medical expense incurred within one year from the date of the accident on account of such bodily injury, provided such bodily injury arises out of (a) a condition in the insured premises, or (b) operations with respect to which the named insured is afforded coverage for bodily injury liability under the policy.

This insurance does not apply:

(A) to bodily injury

(1) arising out of the ownership, maintenance, operation, use, loading or unloading of

(a) any automobile or aircraft owned or operated by or rented or loaned to any insured, or

(b) any other automobile or aircraft operated by any person in the course of his employment by any insured;

but this exclusion does not apply to the parking of an automobile on the insured premises, if such automobile is not owned by or rented or loaned to any insured;

(2) arising out of

(a) the ownership, maintenance, operation, use, loading or unloading of any mobile equipment while being used in any prearranged or organized racing, speed or demolition contest or in any stunting activity or in practice or preparation for any such contest or activity, or

(b) the operation or use of any snowmobile or trailer designed for use therewith;

(i) owned or operated by or rented or loaned to any insured, or

(ii) operated by any person in the course of his employment by any insured;

(3) arising out of the ownership, maintenance, operation, use, loading or unloading of

(a) any watercraft owned or operated by or rented or loaned to any insured, or

(b) any other watercraft operated by any person in the course of his employment by any insured;

but this exclusion does not apply to watercraft while ashore on the insured premises;

(4) arising out of and in the course of the transportation of mobile equipment by an automobile owned or operated by or rented or loaned to the named insured;

(B) to bodily injury

(1) included within the completed operations hazard or the products hazard;

(2) arising out of operations performed for the named insured by independent contractors other than

(a) maintenance and repair of the insured premises, or

(b) structural alterations at such premises which do not involve changing the size of or moving buildings or other structures;

(3) resulting from the selling, serving or giving of any alcoholic beverage

(a) in violation of any statute, ordinance or regulation,

(b) to a minor,

(c) to a person under the influence of alcohol, or

## BROAD FORM COMPREHENSIVE GENERAL LIABILITY ENDORSEMENT—(Continued)

GL 04 04  
(Ed. 5-81)

(d) which causes or contributes to the intoxication of any person.

if the **named insured** is a person or organization engaged in the business of manufacturing, distributing, selling or serving alcoholic beverages, or if not so engaged, is an owner or lessor of premises used for such purposes, but only part (a) of this exclusion (B) (3) applies when the **named insured** is such an owner or lessor;

(4) due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing;

(C) to **bodily injury**

(1) to the **named insured**, any partner thereof, any tenant or other person regularly residing on the **insured premises** or any employee of any of the foregoing if the **bodily injury** arises out of and in the course of his employment therewith;

(2) to any other tenant if the **bodily injury** occurs on that part of the **insured premises** rented from the **named insured** or to any employee of such a tenant if the **bodily injury** occurs on the tenant's part of the **insured premises** and arises out of and in the course of his employment for the tenant;

(3) to any person while engaged in maintenance and repair of the **insured premises** or alteration, demolition or new construction at such premises;

(4) to any person if any benefits for such **bodily injury** are payable or required to be provided under any workmen's compensation, unemployment compensation or disability benefits law, or under any similar law;

(5) to any person practicing, instructing or participating in any physical training, sport, athletic activity or contest whether on a formal or informal basis;

(6) if the **named insured** is a club, to any member of the **named insured**;

(7) if the **named insured** is a hotel, motel, or tourist court, to any guest of the **named insured**;

(D) to any **medical expense** for services by the **named insured**, any employee thereof or any person or organization under contract to the **named insured** to provide such services.

## LIMITS OF LIABILITY

The limit of liability for Premises Medical Payments Coverage is \$1,000 each person unless otherwise stated in the schedule of this endorsement. The limit of liability applicable to "each person" is the limit of the company's liability for all **medical expense** for **bodily injury** to any one person as the result of any one accident; but subject to the above provision respecting "each person", the total liability of the company under Premises Medical Payments Coverage for all **medical expense** for **bodily injury** to two or more persons as the result of any one accident shall not exceed the limit of **bodily injury** liability stated in the policy as applicable to "each occurrence".

When more than one **medical payments** coverage afforded by the policy applies to the loss, the company shall not be liable for more than the amount of the highest applicable limit of liability.

## ADDITIONAL DEFINITIONS

When used herein:

"**insured premises**" means all premises owned by or rented to the **named insured** with respect to which the **named insured** is afforded coverage for **bodily injury** liability under this policy, and includes the ways immediately adjoining on land;

"**medical expense**" means expenses for necessary medical, surgical, x-ray and dental services, including prosthetic devices, and necessary ambulance, hospital, professional nursing and funeral services.

## ADDITIONAL CONDITION

Medical Reports; Proof and Payment of Claim

As soon as practicable the injured person or someone on his behalf shall give to the company written proof of claim, under oath if required, and shall, after each request from the company, execute authorization to enable the company to obtain medical reports and copies of records. The injured

person shall submit to physical examination by physicians selected by the company when and as often as the company may reasonably require. The company may pay the injured person or any person or organization rendering the services and the payment shall reduce the amount payable hereunder for such injury. Payment hereunder shall not constitute an admission of liability of any person or, except hereunder, of the company.

## IV. HOST LIQUOR LAW LIABILITY COVERAGE

Exclusion (h) does not apply with respect to liability of the **insured** or his indemnitee arising out of the giving or serving of alcoholic beverages at functions incidental to the **named insured's** business, provided the **named insured** is not engaged in the business of manufacturing, distributing, selling or serving of alcoholic beverages.

## V. FIRE LEGAL LIABILITY COVERAGE—REAL PROPERTY

With respect to **property damage** to structures or portions thereof rented to or leased to the **named insured**, including fixtures permanently attached thereto, if such **property damage** arises out of fire

(A) All of the exclusions of the policy, other than the Nuclear Energy Liability Exclusion (Broad Form), are deleted and replaced by the following:

This insurance does not apply to liability assumed by the **insured** under any contract or agreement.

(B) The limit of **property damage** liability as respects this Fire Legal Liability Coverage—Real Property is \$50,000 each occurrence unless otherwise stated in the schedule of this endorsement.

(C) The Fire Legal Liability Coverage—Real Property shall be excess insurance over any valid and collectible property insurance (including any deductible portion thereof), available to the **insured**, such as, but not limited to, Fire, Extended Coverage, Builder's Risk Coverage or Installation Risk Coverage, and the Other Insurance Condition of the policy is amended accordingly.

## VI. BROAD FORM PROPERTY DAMAGE LIABILITY COVERAGE (Including Completed Operations)

The insurance for **property damage** liability applies, subject to the following additional provisions:

(A) Exclusions (k) and (o) are replaced by the following:

(1) to property owned or occupied by or rented to the **insured**, or, except with respect to the use of elevators, to property held by the **insured** for sale or entrusted to the **insured** for storage or safekeeping;

(2) except with respect to liability under a written sidetrack agreement or the use of elevators

(a) to property while on premises owned by or rented to the **insured** for the purpose of having operations performed on such property by or on behalf of the **insured**,

(b) to tools or equipment while being used by the **insured** in performing his operations,

(c) to property in the custody of the **insured** which is to be installed, erected or used in construction by the **insured**,

(d) to that particular part of any property, not on premises owned by or rented to the **insured**,

(i) upon which operations are being performed by or on behalf of the **insured** at the time of the **property damage** arising out of such operations, or

(ii) out of which any **property damage** arises, or

(iii) the restoration, repair or replacement of which has been made or is necessary by reason of faulty workmanship thereon by or on behalf of the **insured**;

(3) with respect to the **completed operations hazard** and with respect to any classification stated in the policy or in the company's manual as "including completed operations", to **property damage** to work performed by the **named insured** arising out of such work or any portion thereof, or out of such materials, parts or equipment furnished in connection therewith.

(B) The Broad Form Property Damage Liability Coverage shall be excess insurance over any valid and collectible property insurance (including

any deductible portion thereof) available to the insured, such as, but not limited to, Fire, Extended Coverage, Builder's Risk Coverage or Installation Risk Coverage, and the Other Insurance Condition of the policy is amended accordingly.

#### VII. INCIDENTAL MEDICAL MALPRACTICE LIABILITY COVERAGE

The definition of **bodily injury** is amended to include **Incidental Medical Malpractice Injury**.

**Incidental Medical Malpractice Injury** means injury arising out of the rendering of or failure to render, during the policy period, the following services:

- (A) medical, surgical, dental, x-ray or nursing service or treatment or the furnishing of food or beverages in connection therewith; or
- (B) the furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances.

This coverage does not apply to:

- (1) expenses incurred by the insured for first-aid to others at the time of an accident and the "Supplementary Payments" provision and the "Insured's Duties in the Event of Occurrence, Claim or Suit" Condition are amended accordingly;
- (2) any insured engaged in the business or occupation of providing any of the services described under VII (A) and (B) above;
- (3) injury caused by any indemnitee if such indemnitee is engaged in the business or occupation of providing any of the services described under VII (A) and (B) above.

#### VIII. NON-OWNED WATERCRAFT LIABILITY COVERAGE (under 26 feet in length)

Exclusion (e) does not apply to any watercraft under 26 feet in length provided such watercraft is neither owned by the named insured nor being used to carry persons or property for a charge.

Where the insured is, irrespective of this coverage, covered or protected against any loss or claim which would otherwise have been paid by the company under this endorsement, there shall be no contribution or participation by this company on the basis of excess, contributing, deficiency, concurrent, or double insurance or otherwise.

#### IX. LIMITED WORLDWIDE LIABILITY COVERAGE

The definition of **policy territory** is amended to include the following:

- (4) Anywhere in the world with respect to **bodily injury, property damage, personal injury or advertising injury** arising out of the activities of any insured permanently domiciled in the United States of America though temporarily outside the United States of America, its territories and possessions or Canada, provided the original suit for damages because of any such injury or damage is brought within the United States of America, its territories or possessions or Canada.

Such insurance as is afforded by paragraph (4) above shall not apply:

- (a) to **bodily injury or property damage** included within the completed operations hazard or the products hazard;
- (b) to **Premises Medical Payments Coverage**.

#### X. ADDITIONAL PERSONS INSURED

As respects **bodily injury, property damage and personal injury and advertising injury** coverages, under the provision "Persons Insured", the following are added as insureds:

- (A) **Spouse—Partnership**—If the named insured is a partnership, the spouse of a partner but only with respect to the conduct of the business of the named insured;
- (B) **Employee**—Any employee (other than executive officers) of the named insured while acting within the scope of his duties as such, but the insurance afforded to such employee does not apply:

- (1) to **bodily injury or personal injury** to another employee of the named insured arising out of or in the course of his employment;
- (2) to **personal injury or advertising injury** to the named insured or, if the named insured is a partnership or joint venture, any partner or member thereof, or the spouse of any of the foregoing;
- (3) to **property damage** to property owned, occupied or used by, rented to, in the care, custody or control of or over which physical control is being exercised for any purpose by another employee of the named insured, or by the named insured or, if the named insured is a partnership or joint venture, by any partner or member thereof or by the spouse of any of the foregoing.

#### XI. EXTENDED BODILY INJURY COVERAGE

The definition of **occurrence** includes any intentional act by or at the direction of the insured which results in **bodily injury**, if such injury arises solely from the use of reasonable force for the purpose of protecting persons or property.

#### XII. AUTOMATIC COVERAGE—NEWLY ACQUIRED ORGANIZATIONS (90 DAYS)

The word **insured** shall include as **named insured** any organization which is acquired or formed by the named insured and over which the named insured maintains ownership or majority interest, other than a joint venture, provided this insurance does not apply to **bodily injury, property damage, personal injury or advertising injury** with respect to which such new organization under this policy is also an insured under any other similar liability or indemnity policy or would be an insured under any such policy but for exhaustion of its limits of liability. The insurance afforded hereby shall terminate 90 days from the date any such organization is acquired or formed by the named insured.



Commerical Lines  
Department

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**IMPORTANT NOTICE - MASSACHUSETTS**

**Changes In Your Policy**

Amendatory Endorsement GL 00 31 or GL 00 32 is attached to your policy and changes the employers liability exclusion of the policy.

Coverage has been reduced with respect to bodily injury sustained by the spouse, child, parent, brother or sister of an employee of the insured as a consequence of bodily injury to such employee arising out of and in the course of his employment by the insured. This coverage is specifically provided by the standard Worker's Compensation and Employer's Liability policy applicable in this state.

This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Additional Premium \$ \_\_\_\_\_

Countersigned by \_\_\_\_\_  
(Authorized Representative)

This endorsement modifies such insurance as is afforded by the provisions of the policy relating to the following:

**COMPREHENSIVE GENERAL LIABILITY INSURANCE  
MANUFACTURERS AND CONTRACTORS LIABILITY INSURANCE  
OWNERS, LANDLORDS AND TENANTS LIABILITY INSURANCE  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY INSURANCE  
STOREKEEPERS INSURANCE  
SMP LIABILITY INSURANCE**

#### Amendatory Endorsement

It is agreed that the exclusion relating to **bodily injury** to any employee of the **insured** is deleted and replaced by the following:

This insurance does not apply:

- (i) to **bodily injury** to any employee of the **insured** arising out of and in the course of his employment by the **insured** for which the **insured** may be held liable as an employer or in any other capacity;
- (ii) to any obligation of the **insured** to indemnify or contribute with another because of damages arising out of the **bodily injury**; or
- (iii) to **bodily injury** sustained by the spouse, child, parent, brother or sister of an employee of the **insured** as a consequence of **bodily injury** to such employee arising out of and in the course of his employment by the **insured**;

This exclusion applies to all claims and suits by any person or organization for damages because of such **bodily injury** including damages for care and loss of services.

This exclusion does not apply to liability assumed by the **insured** under an **incidental contract**.

This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

This endorsement modifies such insurance as is afforded by the provisions of the policy relating to the following:

### COMPREHENSIVE GENERAL LIABILITY INSURANCE

#### EXCLUSION

(Explosion, Collapse and Underground Property Damage Hazards)

It is agreed that:

1. The following exclusion is added to the policy:

(q) to **property damage** included within:

- (1) the **explosion hazard** in connection with operations identified in the policy by a classification code number which includes the symbol "x",
- (2) the **collapse hazard** in connection with operations identified in the policy by a classification code number which includes the symbol "c",
- (3) the **underground property damage hazard** in connection with operations identified in the policy by a classification code number which includes the symbol "u".

2. When used in reference to this endorsement.

"**collapse hazard**" includes "structural property damage" as defined herein and **property damage** to any other property at any time resulting therefrom. "Structural property damage" means the collapse of or structural injury to any building or structure due to (1) grading of land, excavating, borrowing, filling, back-filling, tunnelling, pile driving, cofferdam work or caisson work or (2) moving, shoring, underpinning, raising or demolition of any building or structure or removal or rebuilding of any structural support thereof. The **collapse hazard** does not include **property damage** (1) arising out of operations performed for the **Named Insured** by independent contractors, or (2) included within the **completed operations hazard** or the **underground property damage hazard**, or (3) for which liability is assumed by the **Insured** under an **incidental contract**;

"**explosion hazard**" includes **property damage** arising out of blasting or explosion. The **explosion hazard** does not include **property damage** (1) arising out of the explosion of air or steam vessels, piping under pressure, prime movers, machinery or power transmitting equipment, or (2) arising out of operations performed for the **Named Insured** by independent contractors, or (3) included within the **completed operations hazard** or the **underground property damage hazard**, or (4) for which liability is assumed by the **Insured** under an **incidental contract**;

"**underground property damage hazard**" includes "underground property damage" as defined herein and **property damage** to any other property at any time resulting therefrom. "Underground property damage" means **property damage** to wires, conduits, pipes, mains, sewers, tanks, tunnels, any similar property, and any apparatus in connection therewith, beneath the surface of the ground or water, caused by and occurring during the use of mechanical equipment for the purpose of grading land, paving, excavating, drilling, borrowing, filling, back-filling or pile driving. The **underground property damage hazard** does not include **property damage** (1) arising out of operations performed for the **Named Insured** by independent contractors, or (2) included within the **completed operations hazard**, or (3) for which liability is assumed by the **Insured** under an **incidental contract**.

0097-0361



**IMPORTANT NOTICE  
GENERAL LIABILITY INSURANCE  
CHANGE IN POLLUTION LIABILITY COVERAGE**

This is a summary of the major pollution liability coverage changes in your policy. If there is any conflict between the policy and this summary, the provisions of the policy apply.

The pollution exclusion appearing in the policy has been replaced by Pollution Exclusion Endorsement IL 09 28.

The original policy language provides that coverage for pollution is excluded if the introduction of the pollutants is other than "sudden and accidental." Endorsement IL 09 28 excludes the insured's bodily injury and property damage liability arising out of pollutants introduced at or from particular locations or through certain activities whether the introduction of pollutants is sudden and accidental or non-sudden and gradual. Specifically, pollution damages at or from premises owned by or rented to the named insured or at or from any premises used for the handling, storage, disposal, etc. of waste are totally excluded. Pollution damages are also totally excluded if they result from the transportation or handling of waste in any manner. In addition, pollution damages arising out of any operations performed by or on behalf of the insured to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize the pollutants are totally excluded.

To clarify intent, clean up costs and other associated or similar costs are specifically excluded.

The exclusion does not apply to damages arising out of the insured's products or completed operations (if coverage for such hazard is provided by the policy), nor to other off-premises discharges of pollutants not specifically excluded.

These reductions and broadenings are outlined below.

**Reductions**

Sudden and accidental emissions of pollution:

- o at or from insured premises;
- o at or from a site used for the handling, storage, disposal, processing or treatment of wastes;

**Broadenings**

Non-sudden or gradual emissions of pollutants (other than waste):

- o arising out of the products/completed operations hazard (if coverage for such hazard is provided by the policy); or

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**Reductions (Cont'd.)**

- o if the pollutants are transported, handled, stored, treated, disposed of, or processed as waste;
- o if the pollutants are brought to a job site in connection with the operations being performed at that site; or
- o if the operations involve testing for, monitoring, clean up, removing, containment, treatment, detoxification or neutralization of pollutants.

**Broadenings (Cont'd.)**

- o occurring away from insured premises in connection with ongoing operations if:
  - o the pollutants are not brought on the site in connection with operations, and
  - o operations do not involve testing for, monitoring, clean up, removing, containment, treatment, detoxification or neutralization of pollutants.

This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.  
(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement effective \_\_\_\_\_ Policy No. \_\_\_\_\_ Endorsement No. \_\_\_\_\_  
Named Insured \_\_\_\_\_ Countersigned by \_\_\_\_\_  
(Authorized Representative)

This endorsement modifies such insurance as is afforded by the provisions of the policy relating to the following:

**BUSINESSOWNERS POLICY  
COMPREHENSIVE GENERAL LIABILITY INSURANCE  
CONTRACTUAL LIABILITY INSURANCE  
MANUFACTURERS AND CONTRACTORS LIABILITY INSURANCE  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY INSURANCE  
OWNERS, LANDLORDS AND TENANTS LIABILITY INSURANCE  
SMP LIABILITY INSURANCE  
STOREKEEPERS INSURANCE**

### **POLLUTION EXCLUSION**

It is agreed that the exclusion relating to the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants is replaced by the following:

- (1) to **bodily injury** or **property damage** arising out of the actual, alleged or threatened discharge, dispersal, release or escape of pollutants:
  - (a) at or from premises owned, rented or occupied by the **named insured**;
  - (b) at or from any site or location used by or for the **named insured** or others for the handling, storage, disposal, processing or treatment of waste;
  - (c) which are at any time transported, handled, stored, treated, disposed of, or processed as waste by or for the **named insured** or any person or organization for whom the **named insured** may be legally responsible; or
  - (d) at or from any site or location on which the **named insured** or any contractors or subcontractors working directly or indirectly on behalf of the **named insured** are performing operations:
    - (i) if the pollutants are brought on or to the site or location in connection with such operations; or
    - (ii) if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize the pollutants.
- (2) to any loss, cost or expense arising out of any governmental direction or request that the **named insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants.

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.

EPA0261

ATTACH FORMS FOR PRECEDING DIVISION

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EPA0262

0097-0365

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**IMPORTANT NOTICE**  
**GENERAL LIABILITY INSURANCE**  
**CHANGE IN POLLUTION LIABILITY COVERAGE**

This is a summary of the major pollution liability coverage changes in your policy. If there is any conflict between the policy and this summary, the provisions of the policy apply.

The pollution exclusion appearing in the policy has been replaced by Pollution Exclusion Endorsement IL 09 28.

The original policy language provides that coverage for pollution is excluded if the introduction of the pollutants is other than "sudden and accidental." Endorsement IL 09 28 excludes the insured's bodily injury and property damage liability arising out of pollutants introduced at or from particular locations or through certain activities whether the introduction of pollutants is sudden and accidental or non-sudden and gradual. Specifically, pollution damages at or from premises owned by or rented to the named insured or at or from any premises used for the handling, storage, disposal, etc. of waste are totally excluded. Pollution damages are also totally excluded if they result from the transportation or handling of waste in any manner. In addition, pollution damages arising out of any operations performed by or on behalf of the insured to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize the pollutants are totally excluded.

To clarify intent, clean up costs and other associated or similar costs are specifically excluded.

The exclusion does not apply to damages arising out of the insured's products or completed operations (if coverage for such hazard is provided by the policy), nor to other off-premises discharges of pollutants not specifically excluded.

These reductions and broadenings are outlined below.

<b>Reductions</b>	<b>Broadenings</b>
<b>Sudden and accidental emissions of pollution:</b> <ul style="list-style-type: none"><li>o at or from insured premises;</li><li>o at or from a site used for the handling, storage, disposal, processing or treatment of wastes;</li></ul>	<b>Non-sudden or gradual emissions of pollutants (other than waste):</b> <ul style="list-style-type: none"><li>o arising out of the products/completed operations hazard (if coverage for such hazard is provided by the policy); or</li></ul>

0097-0366

MASSACHUSETTS WATER RESOURCES AUTHORITY  
CHARLESTOWN NAVY YARD  
100 FIRST AVENUE  
BOSTON, MASSACHUSETTS 02129

J. S. HOYTE  
CHAIRMAN

TELEPHONE  
(617) 242-6000

April 23, 1987

ABERJONA AUTO PARTS  
278 Salem Street  
Woburn, MA 01801

ATTENTION: Bill Boutwell

Dear Mr. Boutwell:

SUBJECT: Gasoline/Oil Separator Maintenance

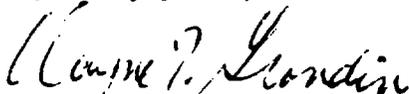
As a result of an inspection of your 278 Salem Street facility by Daniel R. Thompson of my staff, it was revealed that your gasoline/oil separator located on the right side of the building is not receiving appropriate servicing and maintenance.

Therefore, this office is requiring immediately that:

1. Your company have the subject gasoline/oil separator cleaned out by a licensed water hauler and submit a copy of the associated documents and receipts to this office with notification of the date of cleaning in order that we may reinspect the separator.
2. Your company submit a schedule for regular maintenance to this office.

If this office can be of further assistance or clarification, please do not hesitate to contact Charles W. Lombardi at 242-7310, extension 2208.

Very truly yours,

  
WAYNE F. GRANDIN  
Director, Water Quality

DRT:lj

cc: C. McGondel, Plumbing Inspector

EPA0264

0097-0367

# 20 A, B, C etc.



1771 Washington St.  
Stoughton, MA 02072

Phone: 1-617-344-0265 or 1-800-242-5818

INVOICE

DATE	April 6, 1987
NUMBER	

Aberjona Auto Parts

278 Salem Street

Woburn, MA 01801

11 HMS Net 15

PLEASE DETACH AND RETURN WITH YOUR REMITTANCE

\$ 3,950.00

DATE	CHARGES AND CREDITS	BALANCE
	BALANCE FORWARD	
3-31	Pump and clean (1) separator of oil and water, (6) 55 gallon drums of oily solids left on-site for pickup at later date.	
	Separator cleaning	\$1,850.00
	Disposal of (6) 55 gallon drums @ \$350.00 each	2,100.00
	Ticket #38978	
	<i>Check # 11479</i>	
	A MONTHLY SERVICE CHARGE OF 1 1/2% WILL BE CHARGED AFTER THIRTY DAYS. ANNUAL INTEREST RATE 18%.	\$3,950.00

CYN OIL CORP.

Thank You

PAY LAST AMOUNT IN THIS COLUMN

EPA0265

0097-0368



COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING  
DIVISION OF SOLID AND HAZARDOUS WASTE

One Winter Street  
Boston, Massachusetts 02108

33792

Form type: Form designed for use on elite (12 pitch) typewriter.

UNIFORM HAZARDOUS WASTE MANIFEST	1. Generator US EPA ID No.	Manifest Document No.	2. Page 1 of 2	Information not included areas is not required by Federal law
	MA P 0 0 0 0 2 0 3 4 2 0 0 0 8 6			

Generator Name and Mailing Address <b>Aberjona Auto Parts 378 Salem St. Woburn, MA 01801</b>		A. State Manifest Document Number <b>MA C036986</b>
Generator Phone: <b>617 933-4440</b>		B. State Gen. ID <b>None</b>
Generator 1 Company Name <b>Cys Bil Corporation</b>	6 US EPA ID Number <b>MA P 0 0 0 2 3 0 3 7 7 7</b>	C. State Trans. ID <b>MA 332-815</b>
Generator 2 Company Name <b>Environmental Waste Technology</b>	8 US EPA ID Number	D. Transporter's Phone: <b>617 344-0265</b>
Generator 3 Company Name <b>Environmental Waste Technology</b>	10 US EPA ID Number	E. State Trans. ID
Generator Address <b>130 Freight St. Waterbury, CT 06702</b>		F. Transporter's Phone
Generator Phone		G. State Facility ID (Not Required)
Generator Phone		H. Facility Phone: <b>203 755-2283</b>

Description (Include Proper Shipping Name, Hazard Class, and ID Number)	12 Containers		13. Total Quantity	14. Net Vol	15. Waste No.
	No.	Type			
<b>Hazardous Waste Solid NOS OR-X MA9189</b>	<b>00</b>	<b>6</b>	<b>03609</b>	<b>0</b>	<b>0001</b>

Options for Materials Listed Above (include physical state and hazard code) <b>oily solids CRO-2 NON RCRA HAZARDOUS</b>	K. Handling Codes for Waste Listed Above <b>TO42 Chemical fixation prior to Landfill shipment</b>
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Special Handling Instructions and Additional Information:  
**Stream MA2678**

16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations.

If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment. OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.

Printed Name <b>BUDDY DAY</b>	Signature <i>Buddy Day</i>	Month Day Year <b>04 18 87</b>
Transporter 1 Acknowledgement of Receipt of Materials		Date
Printed Name <b>CHARLES SAKOTIS</b>	Signature <i>Charles Sakotis</i>	Month Day Year <b>04 09 87</b>
Transporter 2 Acknowledgement of Receipt of Materials		Date
Printed Name	Signature	Month Day Year

City, State, or Operator Certification of receipt of hazardous materials covered by this manifest except as noted in item 15	Date
Printed Name <b>BRUCE HILLMAN</b>	Signature <i>Bruce Hillman</i>
Month Day Year <b>04 09 87</b>	

Version 1.0 (Edition is OBSOLETE)

MA CUBF7AB COPY 3: GENERATOR-MAILED BY TSDF

# Massachusetts Garage Liability Policy

## DECLARATIONS

TERR.	LIAB.	PHYS. DAM.	PREVIOUS POLICY NO.	AUDIT	UND. GRP.
626	780900	998000	New	1	C
8	070100	070500			

POLICY NUMBER <b>2-62</b> AG RO 270 61 94	PRODUCER <b>Edward G. Boyle Ins. Agcy.</b> Woburn, Ma	SUB-PRODUCER	PRODUCER NUMBER BSN 20 944 215 EB
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18 INSURING COMPANY

### ITEM 1. NAMED INSURED AND ADDRESS

**Cliff Boutwell's Aberjona Auto Parts Inc.**  
278-280 Salem Street  
Woburn, Ma 01801

**RECEIVED**  
APR 3 1986  
BOYLE INSURANCE AG  
Tax ID # 042400877



Loss Payee: Any loss under coverages J, K, L, M, N and O is payable as interest may appear to the named insured and (Enter Name and Address below)

Item 2. Policy Period: (Mo Day Yr) From **1/1/86** to **1/1/87** 12:01 A.M., eastern standard time.

Item 3. This policy provides only the coverages for which a premium charge is shown.

Advance Premiums	Limits of Liability	Hazards	Coverages
\$ 1390 \$ 120	\$10,000 each person / \$20,000 each accident \$2,000 each person		A. Statutory (Compulsory) Div 1 - Bodily Injury Liability Div 2 - Personal Injury Protection
\$ 1640 \$ 369	\$ 500,000 each person \$ 500,000 each accident	1. Motor Vehicles 2. Garage Operations Elevators	B. Bodily Injury Liability - Other than Statutory - (Optional)
\$ 2530 \$ 26	\$ 100,000 each accident subject to \$100 deductible as set forth in Limits of Liability provision	1. Motor Vehicles 2. Garage Operations Elevators	C. Property Damage Liability (Compulsory \$5,000)
\$	Actual Cash Value less \$ deductible		J. Collision - (Optional)
\$	Actual Cash Value less \$ deductible		K. Limited Collision - (Optional)
\$	\$ less \$ deductible		L. Comprehensive - Loss Except by Collision - (Optional)
\$	\$ less \$ deductible		M. Fire, Lightning and Transportation - (Optional)
\$	\$ less \$ deductible		N. Theft - (Optional)
\$	\$ less \$ deductible		O. Combined Additional Coverage - (Optional)
\$	\$ each person	% Premium Rate: Percentage of Cov. A & Cov. B - Motor Vehicle Hazard Premiums	D. Automobile Medical Payments - (Optional)
\$ 120	\$ 1,000 each person	3.3 %	D. & E. Automobile & Premises Medical Payments - (Optional)
\$ 170	\$ 100,000 each person \$ 300,000 each accident		U. Protection Against Uninsured or Underinsured Motorists (Compulsory \$10,000/\$20,000)
\$	Specific limit per location as stated in Item 4 subject to: Coverage G & P - \$250 theft deductible unless loss occurs after theft of the entire vehicle. Coverage H & P - \$25 vandalism deductible Coverage I - \$ 100 deductible Limit of liability includes \$5,000 limit for loss to property other than motor vehicles	Mod .85	F. Fire and Explosion - (Optional) G. Theft - (Optional) H. Riot and Vandalism - (Optional) I. Collision or Upset - (Optional) P. Comprehensive - (Optional)
\$ 934 \$ 7,377	Total Advance Premium	MC9926, MC2515, MC2503, GL00050173	Form numbers of endorsements attached to policy at issue

The Insured is not required to carry more than Compulsory Coverage (Coverages A, C and U) to secure registration of the motor vehicle in Massachusetts.

Item 4. The following are the addresses of all premises where the named insured conducts garage operations

Loc. No.	Address (Shown main sales location, if any, as Location No 1)	Covgs	Loc No	Max. No. of Customers	Motor Vehicles Stored	Limit of Liability
1	278-280 Salem St. Woburn, Ma	FG HIP	1 2		11	\$ 9,000
2						\$

Loc. No.	Premium Basis	Rates			Advance Premiums		
		Coverage A	Coverage B	Coverage C	Coverage A	Coverage B	Coverage C
1	No. of Plates	10					
	Remuneration	\$ 18,700	Per Plate 1-\$ 139 2-\$ 12	\$ 164	\$ 253	A1 \$ 1390	\$ 1640 * \$ 2530 *
	Class (a)	\$ 67,900	Per \$100 of Remuneration	\$ .033	\$ .030	A2 \$ 120	\$ 369 † \$ 26 †
	Class (b)		Class (a)	\$ .534	\$ .030		*Motor Vehicles †Garage Operations
2	No. of Plates		Per Plate 1-\$ 2-\$			A1 \$	\$ * \$ *
	Remuneration		Per \$100 of Remuneration			A2 \$	\$ † \$ †
	Class (a)		Class (a)				*Motor Vehicles †Garage Operations
	Class (b)		Class (b)				

Item 5. Schedule of vehicles specifically insured and purchase information required for coverages J, K, L, M, N and O

SCHEDULE OF VEHICLES												
Veh. No.	Year	Trade Name	Model	Body Type, GVW, GCW or Seating Capacity	Identification Number	Age of Auto	Cost New - Comm. Sym. - PPT	Radius	Territory Garaging	Town Code		

Veh. No.	Registration Mass. Plate No.	Exp. Date	The automobile is unencumbered unless otherwise stated herein: Name and Address of Loss Payee	Length of Loan & Exp. Date	Actual Cost When Purchased Including Equipment	Purchased Month, Year	New or Used

PREMIUMS														
Veh. No.	Compulsory Bodily Injury	PIP	Liability Optional B.I.	Total P.D.	Medical Paym'ts	Uninsured or Underinsured Motorist	Comprehensive Ded.	Specified Perils Cov.	Limit of Liability	Collision Ded.	Limited Collision Ded.	Waiver of Ded.	Less of Use	Towing & Labor

†F-Fire Coverage Only T-Theft Coverage Only F&T-Fire and Theft Coverage CAC=Combined Additional Coverage

\*Applicable to Comprehensive and Specified Perils Coverage

This premium includes the charge for the optional coverages which you selected in order to reduce the deductible to less than the mandatory \$300.

The cost of this optional coverage is as shown below:

Collision or Limited Collision

Premium to reduce deductible from \$300 to \$ .....\$

Premium for Waiver of Deductible.....\$

Comprehensive or Specified Peril

Premium to reduce deductible from \$300 to \$ .....\$

Countersigned:

3/25/86 imxo

By

Authorized Representative

MC 25 03 (Ed. 01 80)  
**AUTOMOBILE DEALERS' PHYSICAL DAMAGE SUPPLEMENT**  
(Massachusetts)

This supplement, effective \_\_\_\_\_, forms a part of Policy No. \_\_\_\_\_

(12:01 A.M., standard time)

issued to \_\_\_\_\_

by \_\_\_\_\_

Authorized Representative

**Loss Payee:** As stated in the Loss Payable Clause, any loss hereunder is payable as interest may appear to the named insured and

**SCHEDULE**

The insurance afforded is only with respect to such of the following coverages as are indicated by specific premium charge or charges. The limit of the company's liability against each such coverage shall be as stated herein, subject to all the terms of this policy having reference thereto.

Premium (Deposit Premium if On Monthly or Quarterly Report. Prem. Basis)	Limits of Liability		Actual Cash Value, subject to specific limit per location as stated elsewhere herein and the deductible amount stated opposite the coverage to which it applies, subject to a maximum deductible of: <u>1000</u>	Coverages
	\$	deductible, each automobile		
\$ 204	\$ 200	deductible, each automobile	by loss covered by theft, malicious mischief or vandalism.	Comprehensive
\$ 88	\$ 200	deductible, each automobile		Fire, Lightning and Transportation
\$ 122	\$ 200	deductible, each automobile		Theft
\$ 486	\$ 200	deductible, each automobile		Supplemental Coverage
\$	\$	deductible, each automobile		Collision
\$ 900	Total			Limited Collision

**INTERESTS AND AUTOMOBILES COVERED**  
(Insert in each space "Yes" or "No")

Such insurance as is afforded applies only with respect to such types of automobiles and interests therein as are indicated below:

Used Automobiles (Including Demonstrators and Service Vehicles)		New Automobiles		Insured's interest in owned automobiles unencumbered by any security interest of a creditor of the insured.
Coll.	Lim. Coll.	Coll.	Lim. Coll.	
YES	NO	NO	NO	Insured's equity only in automobiles encumbered by a security interest of a creditor of the insured.
NO	NO	NO	NO	Insured's and its secured creditor's interest, subject to Loss Payable Clause, in automobiles encumbered by any security interest of such creditor.
NO	NO	NO	NO	All interests in consigned automobiles.

If such insurance does not apply to all interests, the company shall not be liable for a greater proportion of any loss than the amount the insured interest bears to the actual cash value of the automobile at the time of the loss.

Premium Basis

MOD .85

A. Monthly Reporting. Values determined as—

- (1) the average of the values for each day of the preceding month coming within the policy term
- (2) the average of the values for the last business day of each week during preceding month coming within the policy term
- (3) the values for the last business day of the preceding month

Check Method Agreed Upon

B. Quarterly Reporting. Values determined as—

- (1) the average of the values for the last business day of each of the preceding three months coming within the policy term
- (2) the values for the last business day of every third month

C. Non-Reporting. Stated limit of liability.

0097-0372

EPA0269

\$ Minimum Earned Premium

**NAMED LOCATIONS**

The insured represents that the specific locations named herein are all of the locations or spaces within locations owned, rented or controlled wholly or in part and used by the insured as places of display or storage of automobiles on the inception date of this supplement. The company's limit of liability for each such location shall be as stated herein.

Loc. No.	Premium (if non-report. basis)	Limit of Liability	Rates			Address (Show main sales location as Location No. 1)
			Comp.	F. L. & T.	Supp. Cov.	
1	\$ 326	\$ 40,000		.510	.306	278-280 SALEM ST WOBURN, MA
2	\$	\$				SMALL STANDARD OFFICE

Total Limit of Liability \$ 40,000

Blanket Rates—Annual Rates at all locations having the same Rates for (1) Monthly or Quarterly Reported Values at Risk, or (2) Total Limit of Liability at all Locations. (If the same rate does not apply at all locations, the Location number precedes the applicable rate).

Premium	First \$50,000	From \$50,001 To \$100,000	Over \$100,000	Coverage
\$ 88	.221	1.28	.068	Theft
\$ 486	1.216	.468	.187	Collision
\$				Limited Collision

The limit of liability stated for the main sales location shall be inclusive of the limit of liability for automobiles which are made available for use of the owner, officers or employees and privately stored at other than the named locations, and the actual cash value of all such automobiles shall be included in the monthly or quarterly statements of values reported for the main sales location if this supplement is on a Monthly or Quarterly Premium Basis.

**UNNAMED LOCATIONS**

The company's limit of liability for unnamed locations shall be as stated below:

**Limit of Liability**

Each Additional Location: \$ (subject to notice and 45 day provisions)  
 All Temporary Locations: \$ (subject to 7-day provision)  
 \$ In Transit

In consideration of the payment of the premium, in reliance upon the statements made in the supplement schedule and the policy declarations, and subject to all of the terms of this supplement, the company agrees with the insured named in Item 1. of the policy declarations as follows:

**INSURING AGREEMENTS**

The company will pay for loss to any automobile covered hereunder but only for the amount of each such loss in excess of the deductible amount stated in the supplemental schedule as applicable to each automobile caused by:

**Any Loss except Collision (Comprehensive)** any loss except collision, but only for the amount of each such loss in excess of the deductible amount stated in the declarations as applicable thereto. Breakage of glass and loss caused by missiles, falling objects, fire, theft, explosion, earthquake, windstorm, hail, water, flood, malicious mischief or vandalism, riot or civil commotion shall not be deemed loss caused by collision. The collision of a private passenger motor vehicle not used as a public conveyance and not owned and held for sale by an automobile dealer with a bird or animal shall not be deemed loss caused by collision.

**Fire, Lightning and Transportation** (a) fire or lightning, (b) smoke or smudge due to a sudden, unusual and faulty operation of any fixed heating equipment serving the premises in which the automobile is located, or (c) the stranding, sinking, burning, collision or derailment of any conveyance in or upon which the automobile is being transported;

**Theft** theft, larceny, robbery or pilferage;

**Supplemental Coverage** windstorm, hail, earthquake, explosion, riot or civil commotion, the forced landing or falling of any aircraft, its parts or equipment, flood or rising waters, malicious mischief or vandalism, external discharge or leakage of water except loss resulting from rain, snow or sleet whether or not wind-driven;

**Collision** collision;

**Limited Collision** collision, if the comparative negligence attributable to the operator of the insured motor vehicle is not more than fifty percent, provided, however, this coverage applies only in the following cases and no others:

- (a) cases in which the insured would be entitled to recover in tort for such loss against another identified person;
- (b) cases in which the loss occurs while any automobile covered hereunder is lawfully parked and is struck by another automobile owned by another identified person;
- (c) cases in which the loss occurs through any automobile covered hereunder being struck in the rear by another automobile moving in the same direction and which is owned by another identified person;
- (d) cases in which the operator of the automobile causing loss to any automobile covered hereunder is, as a result of his operation at the time of the loss, convicted of any of the following:
  - (1) operating under the influence of alcohol, marihuana or a narcotic drug as defined in Chapter 94C of the General Laws of Massachusetts,
  - (2) driving the wrong way on a one way street,
  - (3) operating at an excessive rate of speed as defined in Section 17 of Chapter 90 of the General Laws of Massachusetts,
  - (4) any similar violation of the law of any other state in which the loss occurs, provided however, there is no coverage under this subsection (d) if the authorized operator of any automobile covered hereunder is himself convicted of any of the above violations as a result of his operation at the time such loss was incurred.

As long as the operator of the insured motor vehicle was not more than fifty percent at fault, the operator's percentage of fault will not affect the amount of the company's payment.



(over)

**General Average and Salvage Charges:** The company, with respect to such transportation insurance as is afforded, shall pay any general average and salvage charges for which the named insured shall become legally liable.

**Non-Applicability of Deductible — Glass Breakage:** Any deductible amount applicable to comprehensive, fire, lightning and transportation, theft and supplemental coverage shall not apply to damage to glass of the insured motor vehicle.

**Automobiles Covered:** The insurance afforded applies only to the types of automobiles and interests therein indicated in the supplement schedule and provided such automobiles are:

- (1) held by the insured for sale or used in the insured's business as a garage including repair service or as demonstrators but excluding (i) automobiles leased or rented to others, except while rented to a customer of the insured while such customer's automobile is temporarily left with the insured for service or repair and (ii) automobiles sold by the insured subject to any security interest of the insured or (iii) automobiles for which loss is covered under any
  - (a) floor plan or similar arrangement, or
  - (b) other valid and collectible insurance, or
- (2) held by the insured pending delivery after sale, except as to loss for which the interest of the purchaser is insured.

**Additional and Temporary Locations:** The insured shall report to the company any additional location, and the company shall not be liable for loss occurring prior to receipt of such report unless such loss occurs during the first 45 days after commencement of the use of such location.

The company shall not be liable for loss which occurs at any temporary location more than 7 days after the commencement of its use.

**Definitions:** As used in this supplement:

**"additional location"** means any location owned, rented or controlled in whole or in part by the insured which is used as a place of display or storage of automobiles subsequent to the inception date of this supplement;

**"automobile"** means a land motor vehicle or trailer, and includes its equipment and other equipment permanently attached thereto;

**"consigned automobile"** means an automobile held by the insured for sale, not owned by the insured nor encumbered by a security interest of a creditor of the insured;

**"garage"** means an automobile sales agency or dealer;

**"insured"** means the insured named in item 1 of the declarations of the policy;

**"loss"** means direct and accidental loss of or damage to the automobile;

**"named location"** means the location, or space within the location, used by the insured as a place of display or storage of automobiles, at each address shown in the schedule;

**"security interest"** means the interest of any creditor in the automobile which secures an obligation owed such creditor;

**"standard open lot"** means an open parking storage lot enclosed on all sides by a metal cyclone or equivalent fence not less than six feet in height, or bounded on one or more sides by the wall or walls of a building with no unprotected openings and with the exposed sides of the lot enclosed by a metal cyclone or equivalent fence not less than six feet in height, with openings securely locked when unattended;

**"temporary location"** means any location used by the insured for the purpose of storing or displaying automobiles, other than a named or additional location or a location named in any other policy affording the insured insurance against loss covered hereunder;

**"trailer"** includes semitrailer;

**"war"** means war, whether or not declared, civil war, insurrection, rebellion or revolution, or any act or condition incident to any of the foregoing.

**Exclusions:** This supplement does not apply:

- (a) to any automobile while being used as a public or livery conveyance;
- (b) to any automobile while in a building or premises occupied by the insured as a factory or assembly plant, but this shall not be construed to mean salesrooms, service stations or garages;
- (c) to any automobile while being operated in any prearranged or organized racing, speed or demolition contest, or in any stunting activity or in practice or in preparation for any such contest or activity;
- (d) to more than four automobiles while waterborne on any single boat, barge, or lighter, but this exclusion shall not apply to automobiles in a railroad car being transported on a car ferry;
- (e) to a loss resulting from or occurring after the insured's voluntarily parting with title to or possession of any automobile, if induced to do so by any fraudulent scheme, trick, device or false pretense, or from embezzlement, conversion, secretion, theft, larceny, robbery or pilferage committed by any person entrusted by the insured with custody or possession of the automobile;
- (f) (1) to loss due to war; (2) to loss due to radioactive contamination;

(g) to damage which is due and confined to wear and tear, freezing, mechanical or electrical breakdown or failure, unless such damage results from a theft covered by this supplement;

(h) to robes, wearing apparel or other personal effects;

(i) to tires, unless damaged by fire or stolen or unless the loss be coincident with and from the same cause as other loss covered by this supplement;

(j) to the insured's prospective profit or overhead charges of any nature;

(k) under Collision or Limited Collision Coverage, to any automobile while being driven, towed, or carried on any other automobile or trailer owned or hired by the insured, from point of purchase or distribution to point of destination if such points are more than 50 road miles apart;

(l) under division (c) of the Fire, Lightning and Transportation Coverage, to loss to any automobile caused by the collision or upset of any land motor vehicle or trailer in or upon which the automobile is being transported.

**Monthly Statements:** If the premium basis for this insurance is indicated in the schedule as "Monthly Reporting", on or before the fifteenth day of each month the insured shall render to the company, on the form provided by the company, a statement of the location of all automobiles and the actual cash value thereof at the close of business on a given day or days of the preceding month, determined as indicated in the schedule.

**Quarterly Statements:** If the premium basis for this insurance is indicated in the schedule as "Quarterly Reporting", on or before the fifteenth day of the fourth month and of every third month thereafter the insured shall render to the company, on the form provided by the company, a statement of the location of all automobiles and the actual cash value thereof at the close of business on a given day or days of the preceding three months, determined as indicated in the schedule.

**Limit of Liability:** The limit of the company's liability for loss shall not exceed (1) the actual cash value of the automobile, or if the loss is of a part thereof the actual cash value of such part, at time of loss, nor what it would then cost to repair or replace the automobile or such part thereof with other of like kind and quality with deduction for depreciation, nor (2) with respect to all automobiles at one named, additional or temporary location or an automobile in transit, the applicable limit of liability stated in the schedule; provided that

A. if the premium basis for this insurance is indicated in the schedule as "Monthly Reporting", the company's liability for any loss shall not exceed that proportion thereof which (1) the aggregate actual cash values with respect to the location where the loss occurred or where the damaged property is normally located, as stated in the monthly statement last rendered to the company prior to the loss, bear to (2) the aggregate actual cash values at said location as of the date of said statement including, with respect to the main sales location, the actual cash value of all automobiles made available for the use of the insured, officers or employees and privately stored at other than the named locations, however if the first monthly statement required under the terms of this supplement is delinquent as of the date of any loss, the company's liability for such loss shall not exceed 75% of the limit of liability stated in the schedule for the applicable location;

B. if the premium basis for this insurance is indicated in the schedule as "Quarterly Reporting", the company's liability for any loss shall not exceed that proportion thereof which (1) the aggregate actual cash values with respect to the location where the loss occurred or where the damaged property is normally located, as stated in the quarterly statement last rendered to the company prior to the loss, bear to (2) the aggregate actual cash values at said location as of the date of said statement including, with respect to the main sales location, the actual cash value of all automobiles made available for the use of the insured, officers or employees and privately stored at other than the named locations, however if the first quarterly statement required under the terms of this supplement is delinquent as of the date of any loss, the company's liability for such loss shall not exceed 75% of the limit of liability stated in the schedule for the applicable location;

C. if the premium basis for this insurance is indicated in the schedule as "Non-Reporting", the company shall not be liable for a greater proportion of loss to any automobile than the total limits of liability for all named locations bear to the aggregate actual cash value of all automobiles covered hereunder at the time of loss;

and the deductible amount of any coverage shall be applied to the amount of loss so determined.

**Payment of Loss:** The company may pay for the loss in money or may repair or replace the damaged or stolen automobile or part thereof; but if requested by the company the insured shall replace such automobile or part or furnish the labor and materials necessary for repairs thereto and the company shall pay only the actual cost to the insured. The company may at any time before the loss is paid or the automobile is so replaced, at its expense return any stolen automobile to the insured, with payment for any resultant damage thereto; or may take all or part of the damaged or stolen automobile at the agreed or appraised value but there shall be no abandonment to the company.

with custody or possession of the automobile;  
(f) (1) to loss due to war; (2) to loss due to radioactive contamination;

sure, with payment for any reasonable damage interest, or may take all or part of the damaged or stolen automobile at the agreed or appraised value but there shall be no abandonment to the company.

### CONDITIONS

The provisions of the policy respecting Policy Period and Territory, Assistance and Cooperation of the Insured, Subrogation, Changes, Assignment and Cancellation apply to the insurance afforded by this supplement.

1. **PREMIUM:** The premium bases and rates for the insurance afforded by this supplement are stated in the schedule. If the premium basis so indicated is:

A. **Monthly Reporting.** The premium stated in the schedule is a deposit premium only which shall be credited to the amount of the earned premium due at the end of the policy period. Earned premiums shall be computed monthly by applying pro rata of the annual rate for each coverage to the amount of values as shown in each of the insured's monthly statements and, upon notice thereof to the insured, shall become due and payable. Upon expiration of this supplement or cancellation thereof by the insured, the earned premium shall not be less than the minimum earned premium stated in the schedule.

**Quarterly Reporting.** The premium stated in the schedule is a deposit premium only which shall be credited to the amount of the earned premium due at the end of the policy period. Earned premiums shall be computed quarterly by applying pro rata of the annual rate for each coverage to the amount of values as shown in each of the insured's quarterly statements and, upon notice thereof to the insured, shall become due and payable. Upon expiration of this supplement or cancellation thereof by the insured, the earned premium shall not be less than the minimum earned premium stated in the schedule.

If upon cancellation or expiration of this supplement, the earned premium cannot be determined because of the insured's failure to render the statements required hereunder, the earned premium for the period for which statements have not been rendered shall be computed by applying pro rata of the annual rate for each coverage at each location to 75% of the total limit of liability therefor at each location.

B. **Non-Reporting.** Additional or return premiums for increase or reduction of the limits of liability at named locations shall be computed pro rata. Upon termination of Collision or Limited Collision Coverage by expiration or demand of the insured, the earned premium for such coverage shall not be less than the minimum earned premium stated in the schedule.

2. **INSPECTION AND AUDIT:** The company shall be permitted but not obligated to inspect the named insured's property and operations at any time. Neither the company's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of the named insured or others, to determine or warrant that such property or operation are safe or healthful, or are in compliance with any law, rule or regulation.

The company may examine and audit the named insured's books and records at any time during the policy period and extensions thereof

and within three years after the final termination of this policy, as far as they relate to the subject matter of this insurance.

3. **INSURED'S DUTIES IN EVENT OF LOSS:** In the event of loss, the insured shall:

(a) protect the automobile, whether or not the loss is covered by this supplement, and any further loss due to the insured's failure to protect shall not be recoverable under this supplement; reasonable expenses incurred in affording such protection shall be deemed incurred at the company's request;

(b) file with the company, within 91 days after loss, his sworn proof of loss in such form and including such information as the company may reasonably require and shall, upon the company's request, exhibit the damaged property and submit to examination under oath.

4. **ACTION AGAINST COMPANY:** Payment for loss may not be required nor shall action lie against the company unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this supplement nor until 30 days after proof of loss is filed and the amount of loss is determined as provided in this supplement provided, payment shall be due within seven days after receipt of the Completed Work Claim Form: provided further that if the company fails to make such payment within 7 days, the insured may commence an action in contract against the company. If a court decides that the company was unreasonable in refusing to pay on time, the insured may be entitled to double the amount of his damage plus costs and reasonable attorneys' fees.

5. **APPRAISAL:** If the insured and the company fail to agree as to the amount of loss, either may, within 60 days after proof of loss is filed, demand an appraisal of the loss. In such event the insured and the company shall each select a competent appraiser, and the appraisers shall select a competent and disinterested umpire. The appraisers shall state separately the actual cash value and the amount of loss and failing to agree shall submit their differences to the umpire. An award in writing of any two shall determine the amount of loss. The insured and the company shall each pay his chosen appraiser and shall bear equally the other expenses of the appraisal and umpire.

The company shall not be held to have waived any of its rights by any act relating to appraisal.

6. **NO BENEFIT TO BAILEE:** The insurance afforded by this supplement shall not inure directly or indirectly to the benefit of any carrier or bailee liable for loss to the automobile.

7. **DECLARATIONS:** By acceptance of this supplement, the named insured agrees that the statements in the policy declarations and schedule are his agreements and representations, that this supplement is issued in reliance upon the truth of such representations and that this supplement embodies all agreements existing between himself and the company or any of its agents relating to this insurance.

**COMMERCIAL LIABILITY  
COVERAGE**

**GENERAL LIABILITY**

**Elevator Collision Insurance**

**POLICY COVERAGE**

**GL 00 05 01 73**

**IF THE FOLLOWING INFORMATION IS NOT COMPLETE, REFER TO THE APPROPRIATE DECLARATIONS ATTACHED TO THE POLICY.**

INSURED	POLICY NUMBER	SEQUENTIAL NO.
PRODUCER	EFFECTIVE DATE	

**Class 314-35301-016**

DECLARATIONS	No. of Elevators	Rate Per Elevators	Premium
	4	4.08	\$34 Min

LIMITS OF LIABILITY: \$ 10,000 EACH ELEVATOR COLLISION

**1. INSURING AGREEMENT**

The Company will pay for **loss**

- (1) to any **elevator**, or
- (2) to any other property owned, occupied or used by, or rented to, or in the care, custody or control of the **named insured** or as to which the **named insured** is for any purpose exercising physical control, caused by an **elevator collision**.

**2. EXCLUSIONS**

This insurance does not apply to any **loss**:

- (a) caused by an **elevator collision** arising out of fire or caused by fire arising out of an **elevator collision**;
- (b) caused by an **elevator collision** arising out of the breaking, burning out or disrupting of any electrical machine not located within the car of the **elevator**;
- (c) due to war, whether or not declared, civil war, insurrection, rebellion or revolution or to any act or condition incident to any of the foregoing;
- (d) with respect to which insurance is afforded by the policy under the Property Damage Liability Coverage or the Contractual Property Damage Liability Coverage.

**3. LIMITS OF LIABILITY**

The limit of the Company's liability for all **loss** as the result of any one accident shall not exceed the limit of liability stated in the Declarations as applicable to "each **elevator**

**collision**," nor what it would cost at the time of **loss** to repair or replace the property with other of like kind and quality. The Company may pay for the **loss** in money or may repair or replace the property and may settle any claim for **loss** of property either with the **named insured** or the owner thereof. Any property so paid for or replaced shall, at the option of the Company, become the property of the Company. The above limit of liability applies separately to each **elevator** designated in the Declarations.

**4. ADDITIONAL DEFINITIONS**

"**elevator collision**" means the collision of any part of an **elevator** designated in the Declarations, or of anything carried thereon, with another part of such **elevator** or with another object;

"**loss**" means direct and accidental injury or destruction.

**5. AMENDED DEFINITION**

"**elevator**" means any hoisting or lowering device to connect floors or landings, whether or not in service, and all appliances thereof including any car, platform, shaft, hoistway, stairway, runway, power equipment and machinery, or any hydraulic or mechanical hoist used for raising or lowering **automobiles** for lubricating and servicing or for dumping material from trucks; but does not include a hoist without a platform outside a building if without mechanical power or if not attached to building walls, or a hod or material hoist used in alteration, construction or demolition operations, or an inclined conveyor used exclusively for carrying property or a dumbwaiter used exclusively for

This Form must be attached to Change Endorsement when issued after the Policy is written.

ONE OF THE FIREMAN'S FUND INSURANCE COMPANIES AS NAMED IN THE POLICY

HXCL

*Myron Du Bain*  
PRESIDENT

STOCK NO. GL 00 05 01 73

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PAGE ONE OF TWO

carrying property and having a compartment height not exceeding four feet.

#### 6. APPLICATION OF INSURANCE

This insurance applies only to collisions which occur during the policy period.

#### 7. NAMED INSURED'S DUTIES WHEN LOSS OCCURS; ACTION AGAINST COMPANY

With respect to the insurance provided by this coverage part, elevator collision, only the conditions of the policy designated "Insured's Duties in the Event of Occurrence, Claim or Suit" and "Action Against Company" are replaced by the following:

##### NAMED INSURED'S DUTIES WHEN LOSS OCCURS

Upon knowledge of loss which may give rise to a claim for loss, the **named insured** shall:

- (a) give notice thereof as soon as practicable to the Company or any of its authorized agents, and
- (b) file detailed proof of loss, duly sworn to, with the Company within 60 days after the occurrence of loss.

Upon the Company's request, the **named insured** and every claimant hereunder shall submit to examination by the Company, subscribe to the same, under oath if required, and produce for the Company's examination all pertinent records, all at such reasonable times and places as the Company shall designate, and shall cooperate with the Company in all matters pertaining to loss or claims with respect thereto.

The **named insured** shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense. The Company agrees to reimburse the **named insured** for any expense incurred at its request.

#### ACTION AGAINST COMPANY

No action shall lie against the Company unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this policy nor until 60 days after the required proofs of loss have been filed with the Company, nor at all unless commenced within two years from the date when the **named insured** has first knowledge of the loss. If any limitation of time for notice of loss or any legal proceedings herein contained is shorter than that permitted to be fixed by agreement under any statute controlling the construction of this insurance, the shortest permissible statutory limitation of time shall govern and shall supersede the time limitation herein stated.

#### 8. ADDITIONAL CONDITION; APPRAISAL

If the **named insured** and the Company fail to agree as to the amount of loss, each shall, on the written demand of either made within 60 days after receipt of proof of loss by the Company, select a competent and disinterested appraiser, and the appraisal shall be made at a reasonable time and place. The appraisers shall first select a competent and disinterested umpire, and failing for fifteen days to agree upon such umpire, on the request of the **named insured** or the Company such umpire shall be selected by a judge of a court of record in the county and state in which the appraisal is pending. The appraisers shall then appraise the loss, stating separately the actual cash value at time of loss and the amount of the loss, and failing to agree shall submit their differences to the umpire. An award in writing by the umpire and any or both appraisers, or by both appraisers, shall determine the amount of loss. The **named insured** and the Company shall each pay his or its chosen appraiser and shall bear equally the expenses of the umpire and the other expenses of appraisal.

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

# MASSACHUSETTS MOTOR VEHICLE GARAGE POLICY



## FIREMAN'S FUND INSURANCE COMPANIES

San Francisco, California

**THIS POLICY PROVIDES INSURANCE ONLY FOR THOSE COVERAGES WHERE A SPECIFIC PREMIUM IS INDICATED IN THE DECLARATIONS.**

**The Insurance Company whose name is indicated on the Declarations Page Forming a Part of this Policy —**

(A Stock Insurance Company, herein called the Company)

In consideration of the payment of the premium, in reliance upon the statements in the declarations made a part hereof and subject to all of the terms of this policy, agrees with the insured named in the declarations as follows:

### **PART I — BODILY INJURY LIABILITY AND PERSONAL INJURY PROTECTION — STATUTORY INSURING AGREEMENTS**

EPA0275

#### **I Coverage A**

##### **Division 1 — Bodily Injury Liability — Statutory — The Commonwealth of Massachusetts — (This Coverage is Compulsory)**

The company will pay on behalf of the insured, in accordance with the "Massachusetts Compulsory Automobile Liability Security Act," Chapter 346 of the Acts of 1925 of the Commonwealth of Massachusetts and all Acts amendatory thereof or supplementary thereto, all sums which the insured shall become obligated to pay by reason of the liability imposed upon him by law for damages to others for bodily injury, including death at any time resulting therefrom, or for consequential damages consisting of expenses incurred by a husband, wife, parent or guardian for medical, nursing, hospital or surgical services in connection with or on account of such bodily injury or death, sustained by any person or persons during the policy period as defined in Item 2 of the declarations and caused by the ownership, operation, maintenance, control or use of the insured motor vehicle upon the ways of the Commonwealth of Massachusetts or in any place therein to which the public has a right of access.

This division of coverage A is subject to the following provisions:

- (1) No statement made by the insured or on his behalf, either in securing this policy or in securing registration of the motor vehicle, no violation of the terms of this policy and no act or default of the insured, either prior to or subsequent to the issuance of this policy, shall operate to defeat or avoid this coverage so as to bar recovery by a judgment creditor proceeding in accordance with the Laws of the Commonwealth of Massachusetts. The terms of this policy shall remain in full force and effect, however, as binding between the insured and the company, and the insured agrees to reimburse the company for any payment made by the company under this policy on account of any accident, claim or suit involving a breach of the terms of this policy.
- (2) Notwithstanding the provisions of the Cancellation Condition of this policy, if this policy is cancelled by the company

and subsequently the effective date of cancellation is changed by an order of the Board of Appeal or by a decree of the Superior Court or Municipal Court of the City of Boston or a Justice of either, under the provisions of the Massachusetts Compulsory Automobile Liability Security Act, the insurance provided in this coverage shall be cancelled as of the date of cancellation effective by such order or decree and premium adjustment shall be made accordingly; if after the issuance of notice of cancellation by the company, a finding that such cancellation is not proper and reasonable or is invalid is made under the provisions of said Act either by the Board of Appeal, from which finding the company takes no appeal, or by a decree of the Superior Court or Municipal Court of the City of Boston or a Justice of either, the company will continue the insurance provided in this coverage in full force and effect if such order or decree is based upon a complaint made prior to the effective date of cancellation stated in the company's notice, and will reinstate the insurance provided in this coverage in full force and effect as of the date specified in such order or decree if such order or decree is based upon a complaint made within ten days after the effective date of cancellation stated in the company's notice. If the company shall cease to be authorized to transact business in the Commonwealth of Massachusetts, this policy shall be cancelled and premium adjustment shall be made on a pro rata basis as of the effective date of the new certificate of insurance filed by the named insured with the Registrar of Motor Vehicles in Massachusetts, or if no certificate is filed, then as of the effective date of the revocation of registration of the motor vehicle.

- (3) This policy, the written application therefor, if any, and any endorsement, which shall not conflict with the provisions of said Massachusetts Compulsory Automobile Liability Security Act and all Acts amendatory thereof or supplementary thereto, shall constitute the entire contract between the parties.

- (4) The Other Insurance Condition of this policy shall be applicable to this coverage only in the event that other insurance referred to therein is carried in a company authorized to transact insurance in the Commonwealth of Massachusetts.
- (5) This agreement is made in accordance with Sections 112 and 113 of Chapter 175 of the General Laws of Massachusetts.

**Division 2 — Personal Injury Protection — Statutory — (This Coverage is Compulsory)**

The company will pay, in accordance with Chapter 670 of the Acts of 1970 of the Commonwealth of Massachusetts and all Acts amendatory thereof or supplementary thereto, all reasonable expenses incurred within two years from the date of accident for necessary medical, surgical, X-ray and dental services, including prosthetic devices, and necessary ambulance, hospital, professional nursing and funeral services, and, in the case of persons employed or self-employed at the time of an accident, any amounts actually lost by reason of inability to work and earn wages or salary or their equivalent, but not other income, that would otherwise have been earned in the normal course of an injured person's employment, and for payments in fact made to others, not members of the injured person's household, and reasonably incurred in obtaining from those others ordinary and necessary services in lieu of those that, had he not been injured, the injured person would have performed not for income but for the benefit of himself or members of his household, and, in the case of persons neither employed nor self-employed at the time of an accident, any amounts actually lost by reason of diminution of earning power and for payments in fact made to others, not members of the injured person's household, and reasonably incurred in obtaining from those others ordinary and necessary services in lieu of those that, had he not been injured, the injured person would have performed not for income but for the benefit of himself or members of his household:

- (a) to or for each person who sustains bodily injury, caused by accident and not suffered intentionally, while occupying, or, while a pedestrian, through being struck by, the insured motor vehicle; except that no benefits shall be payable to or for any operator or occupant of the insured motor vehicle unless such operator is operating, or such occupant is occupying, the insured motor vehicle with the express or implied consent of the named insured; and
- (b) to or for each insured who sustains bodily injury, caused by accident and not suffered intentionally, while occupying, or, while a pedestrian, through being struck by, a motor vehicle not insured by a policy or bond containing provisions for personal injury protection, as defined in Chapter 670 of the Acts of 1970 of the Commonwealth of Massachusetts;

**Exclusions**

This policy does not apply:

- (1) under division 1 of coverage A, to bodily injury to or death of any guest occupant of the insured motor vehicle;
- (2) under division 1 of coverage A, to bodily injury to or death of any employee of the insured who is entitled to payments or benefits under the provisions of the Massachusetts Workers' Compensation Act;
- (3) under division 2 of coverage A, to bodily injury to any person who is entitled to payments or benefits under the provisions of any workers' compensation law;
- (4) under division 2 of coverage A, to bodily injury to any person, if such person's conduct contributed to his injury while operating a motor vehicle;
  - (a) while under the influence of alcohol, marihuana or a narcotic drug as defined in Chapter 94C of the General Laws of Massachusetts; or
  - (b) while committing a felony or seeking to avoid lawful apprehension or arrest by a police officer; or
  - (c) with the specific intent of causing injury or damage to himself or others;

provided, however, no benefits shall be payable under division 2 of coverage A to the extent the injured person recovers, by way of judgment or settlement, any expenses, amounts or payments otherwise payable under this division.

**II Defense, Settlement, Supplementary Payments**

With respect to such insurance as is afforded by this policy, under division 1 of coverage A, the company shall:

- (a) have the right and duty to defend any suit against the insured seeking damages payable under the terms of this policy, even if any of the allegations of the suit are groundless, false or fraudulent; but the company may make such investigation and settlement of any claim or suit as it deems expedient;
- (b) pay, in addition to the applicable limits of liability:
  - (1) all expenses incurred by the company, all costs taxed against the insured in any suit defended by the company and all interest on the entire amount of any judgment therein which accrues after entry of the judgment and before the company has paid or tendered or deposited in court that part of the judgment which does not exceed the limit of the company's liability thereon;
  - (2) premiums on appeal bonds required in any such suit and premiums on bonds to release attachments for an amount not in excess of the applicable limit of liability of this policy, but without any obligation to apply for or furnish any such bonds;
  - (3) reasonable expenses incurred by the insured for first aid to others, at the time of an accident, for bodily injury to which this policy applies;
  - (4) reasonable expenses incurred by the insured at the company's request, including actual loss of wages or salary (but not loss of other income) not to exceed \$40 per day because of his attendance at hearings or trials at such request.

**III Definition of Insured**

- (a) With respect to the insurance under division 1 of coverage A, the unqualified word "insured" includes the named insured and also any other person responsible for the operation of the insured motor vehicle with the express or implied consent of the named insured;
- (b) with respect to the insurance under division 2 of coverage A, the unqualified word "insured" includes the named insured and any member of his household.

- (5) under division 2 of coverage A, to any person who sustains bodily injury while operating or occupying a motorcycle. "Motorcycle" means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including any bicycle with a motor or a driving wheel attached, except a tractor or a motor vehicle designed for the carrying of golf clubs and not more than four persons, an industrial three-wheel truck, or a motor vehicle on which the operators and passengers ride within an enclosed cab;
- (6) under division 2 of coverage A, to any pedestrian, not a legal resident of the Commonwealth of Massachusetts, who sustains bodily injury through being struck by the insured motor vehicle outside said Commonwealth;
- (7) with respect to expenses under paragraph (b) (3) of Defense, Settlement, Supplementary Payments, to bodily injury:
  - (a) due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing, or
  - (b) resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

(The Attaching Clause need be completed only when this endorsement is issued subsequent to preparation of the policy.)

**A 305**  
(Ed. 1-84)

**AUTOMOBILE**

**MC 25 15 (Ed. 01 84)**

**MASSACHUSETTS MOTOR VEHICLE POLICY ENDORSEMENT (GARAGE)**

This endorsement, effective \_\_\_\_\_, forms a part of policy No. \_\_\_\_\_  
(12:01 A. M., standard time)

issued to \_\_\_\_\_

by \_\_\_\_\_

\_\_\_\_\_  
Authorized Representative

It is agreed that:

1. The following paragraph is added to Item (D) of Condition 2 Limits of Liability; Limitation of Right to Deny Payment; Reimbursement; Settlement Options; No Abandonment, under Conditions Applicable to Part II:

With respect to coverages L, M and N, after a payment is made by the company for the total loss of a vehicle as a result of a fire or theft, the company may suspend coverage for fire or theft for any replacement vehicle unless it is made reasonably available for inspection by the company within two Registry of Motor Vehicle business days following the day of acquisition.

2. Under General Condition 15 Cancellation, the following paragraphs are added after Item (3) in the second paragraph:

The company may cancel coverages J, L, M, N, and O on a vehicle customarily driven by or owned by persons who have, within the last five years:

1. been convicted of vehicular homicide, auto insurance related fraud, or auto theft, or
2. made an intentional material misrepresentation in making claim under those coverages.

The company may likewise cancel:

1. Coverage J on a vehicle customarily driven by or owned by persons who, within three years preceding the effective date of this policy, have been involved in four or more at-fault accidents. An at-fault auto accident is one in which the named insured or any person who customarily drives the insured motor vehicle was more than 50% at fault; and
2. Coverages J, L, M, and N on a vehicle customarily driven by or owned by persons, who have two or more total theft or fire motor vehicle insurance claims after January 1, 1984.

3. General Condition 16 Renewal is amended as follows:

If the company intends not to renew the policy or any of its coverages, a notice must be mailed to the named insured's agent or to the named insured at the last address shown on the policy at least 45 days before the policy expires. A notice sent by Registered or Certified mail, Return Receipt Requested, will be considered sufficient notice. If the company requires a renewal application, and the named insured fails to complete and return it to the company within the specified time, the company can cancel the renewal policy.



EPA0277

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MASSACHUSETTS ENDORSEMENT - MC 99 26 (ED. 1 81)

LIMITATION OF ADDITIONAL INTERESTS -  
LOADING AND UNLOADING

IT IS AGREED THAT THE INSURANCE FOR COVERAGES B AND C DOES NOT APPLY TO INJURY, SICKNESS, DISEASE, DEATH OR DESTRUCTION OF PROPERTY WHICH ARISES OUT OF THE LOADING OR UNLOADING OF THE INSURED MOTOR VEHICLE, PROVIDED THAT THIS LIMITATION DOES NOT APPLY WITH RESPECT TO CLAIMS MADE OR SUITS BROUGHT AGAINST THE FOLLOWING INSUREDS:

- (A) THE NAMED INSURED OR, IF THE NAMED INSURED IS AN INDIVIDUAL, HIS SPOUSE, IF A RESIDENT OF THE SAME HOUSEHOLD.
- (B) A LESSEE OR BORROWER OF THE INSURED MOTOR VEHICLE OR AN EMPLOYEE OF EITHER OF THEM OR OF THE NAMED INSURED.
- (C) ANY OTHER PERSON OR ORGANIZATION BUT ONLY WITH RESPECT TO HIS OR ITS LIABILITY BECAUSE OF ACTS OR OMISSIONS OF AN INSURED UNDER (A) OR (B) ABOVE.

THIS LIMITATION DOES NOT APPLY WITH RESPECT TO ANY PRIVATE PASSENGER MOTOR VEHICLE WHICH IS OWNED BY AN INDIVIDUAL OR HUSBAND AND WIFE AND NOT USED AS A PUBLIC OR LIVERY CONVEYANCE.

EPA0279

## CONDITIONS APPLICABLE TO PART I

## 1 — DEFINITIONS

**"insured motor vehicle"** means any motor vehicle or trailer while registered to the named insured in the Commonwealth of Massachusetts under a manufacturer's, dealer's, or repairman's registration or other registration of the named insured, for which the named insured has filed with the Registrar of Motor Vehicles of Massachusetts, a certificate of insurance, as defined in Section 34A of Chapter 90 of the General Laws of Massachusetts, issued by the company and for which a specific premium charge is made under this policy;

**"motor vehicle"** or **"automobile"** means a land motor vehicle or trailer but does not include:

- (a) a vehicle operated on rails or crawler-treads.
- (b) a vehicle or trailer while located for use as a residence or premises, or
- (c) a farm type tractor or other equipment designed for use principally off public roads, while not upon public roads;

**"bodily injury"** means, except with respect to division 1 of coverage A, bodily injury, sickness or disease sustained by a person, including death at any time resulting therefrom;

**"guest occupant"** means any person, other than an employee of the owner or registrant of an insured motor vehicle or of a person responsible for its operation with the owner's or registrant's express or implied consent, being in or upon, entering or leaving the same, except a passenger for hire in the case of a motor vehicle registered as a taxicab or otherwise for carrying passengers for hire;

**"pedestrian"**, with respect to division 2 of coverage A, includes persons operating bicycles, tricycles and similar vehicles and persons upon horseback or in vehicles drawn by horses or other draft animals;

**"hazardous properties"** include radioactive, toxic or explosive properties;

**"nuclear material"** means source material, special nuclear material or byproduct material;

**"source material"**, **"special nuclear material"** and **"byproduct material"** have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

**"spent fuel"** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

**"waste"** means any waste material (1) containing byproduct material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (1) or (2) thereof;

**"nuclear facility"** means:

- (1) any nuclear reactor.
- (2) any equipment or device designed or used for (a) separating the isotopes of uranium or plutonium, (b) processing or utilizing spent fuel, or (c) handling, processing or packaging waste.
- (3) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235.
- (4) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste, and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

**"nuclear reactor"** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

**"occupying"** means in or upon or entering into or alighting from;

**"trailer"** includes semitrailer;

**"wage continuation program"** means a program at the injured person's place of employment for continuation of wages or salary or their equivalent providing for at least two weeks' compensation for disability.

## 2 — LIMITS OF LIABILITY

With respect to division 1 of coverage A, and regardless of the number of (1) insureds under this policy, (2) persons who sustain bodily injury, (3) claims made or suits brought on account of bodily injury or (4) motor vehicles to which this policy applies, the limit of bodily injury liability stated in the declarations as applicable to "each person" is the limit of the company's liability for all damages, including damages for care and loss of services, arising out of bodily injury, including death at any time resulting therefrom, sustained by one person as the result of any one accident; the limit of such liability stated in the declarations as applicable to "each accident" is, subject to the above provision respecting "each person," the total limit of the company's liability for all such damages arising out of bodily injury, including death at any time resulting therefrom, sustained by two or more persons as the result of any one accident.

With respect to division 2 of coverage A and regardless of the number of (1) insureds under this policy, (2) persons who sustain bodily injury, (3) claims made or suits brought on account of bodily injury or (4) motor vehicles to which this policy applies, the limit of liability for personal injury protection stated in the declarations as applicable to "each person" is the limit of the company's liability for all benefits payable thereunder to or for each person who sustains bodily injury as the result of any one accident. Subject to the above provision respecting each person, payments for loss of wages or salary or their equivalent or, in the case of persons neither employed nor self-employed, loss by reason of diminution of earning power, shall be limited to amounts actually lost by reason of the accident and shall be further limited by reduction of the benefits payable under said division 2 to an amount that, together with any payments due under a wage continuation program, will provide seventy-five percent of any injured person's average weekly wage or salary or its equivalent for the year immediately preceding the accident, provided that the company shall reimburse those wage continuation programs or their equivalent which provide for accumulated benefits which can be converted into either cash or additional retirement credit for the amount said program or its equivalent actually pays to the insured, not to exceed seventy-five percent of the insured's average weekly wages or salary or its equivalent for the year immediately preceding the accident. In any case where amounts paid for loss of wages or salary or their equivalent are reduced and such reduction produces a subsequent loss, as when the limit of any such wage continuation program is exhausted with the result that an injured person cannot recover for a later injury or illness as he would have been entitled to but for such a reduction, such subsequent loss to an amount equaling the reduction in personal injury protection made in accordance with this condition shall, if incurred within one year after the receipt of the last benefit provided under division 2 of coverage A, be treated as a loss of wages, salary or their equivalent incurred as a result of the injury to which personal injury protection applies.

## 3 — NOTICE OF LEGAL ACTION

With respect to division 2 of coverage A, if any injured person or his legal representative shall institute any legal action for bodily injury

against any person or organization legally responsible for the use of an automobile involved in the accident, a copy of the summons and complaint or other process served in connection with such legal action shall be forwarded within a reasonable time to the company by such injured person or his legal representative. Failure of any injured person to comply with the terms of this paragraph shall constitute lack of compliance with the terms of this policy only as to such injured person.

#### 4 — TRUST AGREEMENT

In the event of payment of benefits under division 2 of coverage A to any person:

- (a) the company shall be entitled to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury because of which such payment is made, to the extent the damages recovered include any expense, amount or payment for which such benefits were paid; provided, however, the company's share of such proceeds shall be reduced by the proportion of the expenses, costs and at-

torneys' fees incurred by such person in connection therewith that such benefits paid bear to the total of such proceeds;

- (b) such person shall hold in trust for the benefit of the company all rights of recovery which he shall have against such other person or organization because of any expense, amount or payment which is the subject of claim made under division 2 of coverage A;
- (c) if requested in writing by the company, such person shall take, through any representative designated by the company, such action as may be necessary or appropriate to recover such payment as damages from such other person or organization, such action to be taken in the name of such person; provided, however, that such person shall not be barred from participating in such action through his own representative in order to seek recovery for damages in excess of the payments received; in the event of a recovery, the company shall be reimbursed out of such recovery for the proportion of the expenses, costs and attorneys' fees incurred by it in connection therewith that the total of such proceeds, reduced by such benefits paid, bears to the total of such proceeds.

0097-0383

### PART II — BODILY INJURY LIABILITY — OTHER THAN STATUTORY — PROPERTY DAMAGE LIABILITY AND PHYSICAL DAMAGE INSURING AGREEMENTS

EPA0280

#### I Coverage B — Bodily Injury Liability — Other Than Statutory — (This Coverage is Optional)

#### Coverage C — Property Damage Liability — (This Coverage is Compulsory)

Under coverages B and C, the company will pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of bodily injury or property damage to which Part II applies, caused by accident and arising out of the hazards described below; and the company shall have the right and duty to defend any suit against the insured seeking damages payable under the terms of this policy, even if any of the allegations of the suit are groundless, false or fraudulent; but the company may make such investigation and settlement of any claim or suit as it deems expedient.

If injury occurs with respect to which insurance is afforded under division 1 of coverage A, the insurance thereunder shall first be applied and the limits of liability thereunder shall first be fully exhausted before any of the limits of liability applicable to coverage B shall apply. The limits of liability applicable to division 1 of coverage A are included in the limits of liability applicable to coverage B and are not in addition thereto.

#### Motor Vehicle Hazard

(a) The ownership, maintenance or use of any motor vehicle for the purpose of garage operations, (b) the occasional use for other business purposes and the use for non-business purposes of any motor vehicle owned by or in charge of the named insured and used principally in garage operations, and (c) the ownership, maintenance or use of any motor vehicle owned by the named insured while furnished for the use of any person.

#### Garage Operations Hazard

The ownership, maintenance or use of the premises for the purposes of a garage, and all operations necessary or incidental thereto, herein called "garage operations".

#### Coverage J — Collision — (This Coverage is Optional)

The company will pay for loss to the insured motor vehicle caused by collision, but only for the amount of each such loss in excess of the deductible amount stated in the declarations as applicable thereto.

#### Coverage K — Limited Collision — (This Coverage is Optional)

The company will pay for loss to the insured motor vehicle caused by collision, but only for the amount of each such loss in excess of the deductible amount stated in the declarations as applicable thereto, if

the comparative negligence attributable to the operator of the insured motor vehicle is not more than fifty percent, provided, however, this coverage applies only in the following cases and no others:

- (a) cases in which the operator of the insured motor vehicle is entitled to recover in tort for such loss against another identified person;
- (b) cases in which the loss occurs while the insured motor vehicle is lawfully parked and is struck by another motor vehicle owned by another identified person;
- (c) cases in which the loss occurs through the insured motor vehicle being struck in the rear by another motor vehicle moving in the same direction and which is owned by another identified person;
- (d) cases in which the operator of the motor vehicle causing the loss to the insured motor vehicle is, as a result of his operation at the time of the loss, convicted of any of the following:
  - (1) operating under the influence of alcohol, marihuana or a narcotic drug as defined in Chapter 94C of the General Laws of Massachusetts;
  - (2) driving the wrong way on a one way street;
  - (3) operating at an excessive rate of speed as defined in Section 17 of Chapter 90 of the General Laws of Massachusetts;
  - (4) any similar violation of the law of any other state in which the loss occurs, provided, however, there is no coverage under this subsection (d) if the authorized operator of the insured motor vehicle is himself convicted of any of the above violations as a result of his operation at the time such loss was incurred.

As long as the operator of the insured motor vehicle was not more than fifty percent at fault, the operator's percentage of fault will not affect the amount of the company's payment.

#### Coverage L — Comprehensive (excluding Collision) — (This Coverage is Optional)

The company will pay for loss to the insured motor vehicle other than loss caused by collision, but only for the amount of each such loss in excess of the deductible amount stated in the declarations as applicable thereto. Breakage of glass and loss caused by missiles, falling objects, fire, theft, explosion, earthquake, windstorm, hail, water, flood, malicious mischief or vandalism, riot or civil commotion shall not be deemed loss caused by collision. The collision of a private passenger motor vehicle not used as a public conveyance and not owned and held for sale by an automobile dealer with a bird or animal shall not be deemed loss caused by collision.

**Coverage M — Fire, Lightning and Transportation — (This Coverage is Optional)**

The company will pay for loss to the insured motor vehicle caused (a) by fire or lightning, (b) by smoke or smudge due to a sudden, unusual and faulty operation of any fixed heating equipment serving the premises in which the insured motor vehicle is located, or (c) by the stranding, sinking, burning, collision or derailment of any conveyance in or upon which the insured motor vehicle is being transported, but only for the amount of each such loss in excess of the deductible amount stated in the declarations as applicable thereto.

**Coverage N — Theft — (This Coverage is Optional)**

The company will pay for loss to the insured motor vehicle caused by theft, larceny, robbery or pilferage, but only for the amount of each such loss in excess of the deductible amount stated in the declarations as applicable thereto.

**Coverage O — Combined Additional Coverage — (This Coverage is Optional)**

The company will pay for loss to the insured motor vehicle caused by windstorm, hail, earthquake, explosion, riot or civil commotion, or the forced landing or falling of any aircraft or of its parts or equipment, flood or rising waters, malicious mischief or vandalism, external discharge or leakage of water except loss resulting from rain, snow or sleet, whether or not wind-driven, but only for the amount of each such loss in excess of the deductible amount stated in the declarations as applicable thereto.

**Loss of Use by Theft — Rental Reimbursement.** The company, following a theft covered under this policy of the entire insured motor vehicle, shall reimburse the named insured for expense not exceeding \$15 for any one day nor totaling more than \$450 or the actual cash value of the insured motor vehicle at time of theft, whichever is less, incurred for the rental of a substitute motor vehicle, including taxicabs. Such reimbursement is payable by the company in addition to the applicable limit of liability of this policy.

Reimbursement is limited to such expense incurred during the period commencing 48 hours after such theft has been reported to the company and the police and terminating, regardless of expiration of the policy period, on the date the whereabouts of the insured motor vehicle becomes known to the named insured or the company or on such earlier date as the company makes or tenders a reasonable and adequate offer in settlement for such theft.

Such reimbursement shall be made only if the stolen insured motor vehicle was a private passenger motor vehicle not used as a public or livery conveyance and not owned and held for sale by an automobile dealer.

**General Average and Salvage Charges.** The company, with respect to such transportation insurance as is afforded by this policy, shall pay any general average and salvage charges for which the named insured becomes legally liable.

**Non-Applicability of Deductible — Glass Breakage.** Any deductible amount applicable to coverages L, M, N and O shall not apply to damage to glass of the insured motor vehicle.

**II Defense, Settlement, Supplementary Payments**

Except with respect to coverages J, K, L, M, N, and O, the provisions of paragraph (b) of Defense, Settlement, Supplementary Payments in Part I are applicable to the insurance afforded under Part II

and the company also will pay, in addition to the applicable limits of liability, the cost of bail bonds required of the insured because of accident or traffic law violation arising out of the use of any motor vehicle insured hereunder, not to exceed \$250 per bail bond, but without any obligation to apply for or furnish any such bond.

**III Definition of Insured**

Each of the following is an insured under Part II, except as provided below:

- (1) The named insured;
- (2) With respect to the Motor Vehicle Hazard, under coverages B and C:
  - (a) any person while using, with the permission of the named insured, a motor vehicle to which the insurance applies under sections (a) and (b) of the Motor Vehicle Hazard, provided such person's actual operation or (if he is not operating) his actual use thereof is within the scope of such permission,
  - (b) any person while using a motor vehicle to which the insurance applies under section (c) of the Motor Vehicle Hazard with the permission of the person or organization to whom such motor vehicle is furnished, provided such person's actual operation or (if he is not operating) his other actual use thereof is within the scope of such permission,
  - (c) any other person or organization but only with respect to his or its liability because of acts or omissions of the named insured or of an insured under paragraph (a) or (b) above.
- (3) With respect to the Garage Operations Hazard, under coverages B and C:
  - (a) any employee, director or stockholder of the named insured while acting within the scope of his duties as such,
  - (b) if the named insured is a partnership, any partner therein but only with respect to his liability as such,
  - (c) any person or organization having a financial interest in the garage operations of the named insured.
- (4) None of the following is an insured:
  - (a) any employee with respect to bodily injury to any fellow employee injured in the course of his employment in an accident arising out of the business of his employer;
  - (b) any person or organization, other than the named insured or its directors, stockholders, partners or employees while acting within the scope of their duties as such, with respect to operations performed by independent contractors for the named insured;
  - (c) any person or organization other than the named insured with respect to any motor vehicle (a) owned by such person or organization or by a member (other than the named insured) of the same household, or (b) possession of which has been transferred to another by the named insured pursuant to an agreement of sale;
  - (d) any partner, employee or spouse thereof with respect to property damage to property owned by, rented to or held for sale by the named insured, or property in the care, custody or control of or transported by the named insured.

**Exclusions**

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EPA0281

The provisions of exclusion (7) in Part I are applicable to the insurance afforded under Part II and also this policy does not apply under Part II:

- (1) to liability assumed by the insured under any contract or agreement, except a contract as defined herein or a warranty of goods or products;

- (2) to bodily injury or property damage arising out of the ownership, maintenance or use of any motor vehicle with respect to the Garage Operations Hazard;
- (3) to bodily injury or injury to or destruction of property:
  - (a) with respect to which an insured under this policy is also an insured under a nuclear energy liability policy issued by

Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability;

- (b) resulting from the hazardous properties of nuclear material and with respect to which (i) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (ii) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization, or
- (c) resulting from the hazardous properties of nuclear material, if
  - (i) the nuclear material (a) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (b) has been discharged or dispersed therefrom,
  - (ii) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured, or
  - (iii) the bodily injury or the injury to or destruction of property arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) (c) (iii) applies only to injury to or destruction of property at such nuclear facility;

provided that with respect to injury to or destruction of property, the word "injury" or "destruction" includes all forms of radioactive contamination of property;

- (4) to any motor vehicle (a) while being operated in any prearranged or organized racing, speed or demolition contest or in any stunting activity, or in practice or preparation for any such contest or activity, (b) while rented to others by the named insured unless to a salesman for use principally in the business of the named insured or unless rented to a customer of the named insured while such customer's vehicle is temporarily left with the named insured for service or repair, or (c) while being used by the insured as a public or livery conveyance or for carrying property for a charge unless such use is specifically declared and described in this policy;
- (5) under coverages B and C, to any haulaway, tank truck, tank truck trailer, or any motor vehicle used therewith, owned, hired or held for sale by the named insured and not being delivered, demonstrated or tested; or to any watercraft while away from the premises or to any aircraft;
- (6) to structural alterations, new construction or demolition operations performed for the named insured by independent contractors and general supervision thereof by the named insured if the accident occurs in the course of such operations, other than (a) maintenance and repairs at the premises and (b) structural alterations at the premises which do not involve changing the size of or moving buildings or other structures; provided this exclusion does not apply to operations of which the company has written notice within 30 days after the commencement thereof;
- (7) under coverage B, to bodily injury to any employee of the insured arising out of and in the course of his employment by the insured or to any obligation of the insured to indemnify another for damages arising out of such injury, but this exclusion does not apply to any such injury arising out of and in the course of domestic employment by the insured unless benefits therefor are in whole or

in part either payable or required to be provided under any workers' compensation law;

- (8) to any obligation for which the insured or any carrier as his insurer may be held liable under any workers' compensation, unemployment compensation or disability benefits law, or under any similar law;
- (9) to property damage to (a) property owned by, rented to or held for sale by the insured, (b) property in the care, custody or control of or being transported by the insured, or property as to which the insured is for any purpose exercising physical control, but part (b) of this exclusion shall not apply to property damage arising out of the ownership, maintenance or use at the premises of any automobile servicing hoist designed to raise the entire motor vehicle, or to such insurance as is afforded for the use of elevators at the premises;
- (10) to property damage to any goods, products or containers thereof manufactured, sold, handled or distributed by the named insured if such property damage results from a condition existing therein at the time possession of such goods, products or containers is relinquished to the purchaser thereof;
- (11) to property damage to premises alienated by the named insured or work completed by or for the named insured, out of which the accident arises;
- (12) under coverages J, K, L, M, N and O, to loss resulting from or occurring after the named insured's voluntarily parting with title to or possession of any insured motor vehicle, if induced to do so by any fraudulent scheme, trick, device or false pretense, or from embezzlement, conversion, secretion, theft or larceny committed by any person entrusted by the named insured with custody or possession of the insured motor vehicle;
- (13) under coverages J, K, L, M, N and O, to the insured motor vehicle while being driven, towed, or carried on any other land motor vehicle, trailer or semitrailer owned or hired by the named insured, from point of purchase or distribution to point of destination if such points are more than fifty road miles apart;
- (14) under coverages J, K, L, M, N and O, to loss of or damage to (a) any device or instrument designed for the recording, reproduction, or recording and reproduction of sound unless such device or instrument is permanently installed in the automobile, (b) any tape, wire, record disc or other medium for use with any device or instrument designed for recording, reproduction, or recording and reproduction of sound;
- (15) under coverages J, K, L, M, N and O, to loss due to (a) war, whether or not declared, civil war, insurrection, rebellion or revolution, or any act or condition incident to any of the foregoing, (b) radioactive contamination;
- (16) under coverages J, K, L, M, N and O, to any damage to the insured motor vehicle which is due and confined to wear and tear, freezing, mechanical or electrical breakdown or failure, unless such damage is the result of other loss covered by this policy;
- (17) under coverages J, K, L, M, N and O, to robes, wearing apparel or personal effects;
- (18) under coverages J, K, L, M, N and O, to tires unless (a) loss be coincident with and from the same cause as other loss covered by this policy; or (b) loss is caused by fire, theft, vandalism or malicious mischief;
- (19) under coverages J and K, to breakage of glass if insurance with respect to such breakage is otherwise afforded;
- (20) under coverages J, K, L, M, N and O, to loss to a camper body designed for use with a motor vehicle and not designated in the declarations and for which no premium has been charged, if such camper body was owned at the inception of the policy period or at the inception of any renewal or extension thereof.

0097-0385

## CONDITIONS APPLICABLE TO PART II

EPA0282

### 1 - DEFINITIONS

The definitions in Part I except "insured motor vehicle" apply to Part II, and as used in Part II:

"camper body" means a body designed to be mounted upon a motor vehicle and equipped as sleeping or living quarters;

**"collision"** means collision of the insured motor vehicle with another object or with a vehicle to which it is attached, or upset of such insured motor vehicle;

**"contract"** means any written (1) lease of premises, (2) easement agreement, except in connection with a railroad grade crossing, (3) agreement required by municipal ordinance, except in connection with work for the municipality, or (4) elevator maintenance agreement;

**"damages"** includes (1) under coverage B, damages for care and loss of services, and (2) under coverage C, damages for loss of use of property;

**"elevator"** means any hoisting or lowering device to connect floors or landings, whether or not in service, and all appliances thereof including any car, platform, shaft, hoistway, stairway, runway, power equipment and machinery; but does not include an automobile servicing hoist, or a hoist without a platform outside a building if without mechanical power or if not attached to building walls, or a hod or material hoist used in alteration, construction or demolition operations, or an inclined conveyor used exclusively for carrying property, or a dumbwaiter used exclusively for carrying property and having a compartment height not exceeding four feet;

**"garage"** means an automobile sales agency, repair shop, service station, storage garage or public parking place;

**"insured motor vehicle"** with respect to coverages J, K, L, M, N and O, means:

- (a) the motor vehicle or trailer described in this policy for which a specific premium charge is made and includes its equipment and other equipment permanently attached thereto;
- (b) a newly acquired motor vehicle, ownership of which is acquired during the policy period by the named insured or his spouse if a resident of the same household, if the named insured or spouse notifies the company within thirty days following the date of its delivery, and (i) if it replaces a motor vehicle described in this policy, or (ii) if it is an additional motor vehicle and the company insures all motor vehicles owned by the named insured and such spouse at such delivery date.

The insurance with respect to the newly acquired motor vehicle does not apply to any loss against which the named insured or spouse has other valid and collectible insurance. The named insured shall pay any additional premium required because of the application of the insurance to such newly acquired motor vehicle.

**"loss"** means direct and accidental loss or damage;

**"premises"** means premises where the named insured conducts garage operations, and includes the ways immediately adjoining but does not include any portion of such premises upon which business operations are conducted by any other person or organization;

**"private passenger motor vehicle"** means a private passenger or station wagon type motor vehicle;

**"property damage"** means physical injury to or destruction of tangible property;

**"use"** of a motor vehicle includes both the voluntary and involuntary loading and unloading thereof.

## **2-LIMITS OF LIABILITY; LIMITATION OF RIGHT TO DENY PAYMENT; REIMBURSEMENT; SETTLEMENT OPTIONS; NO ABANDONMENT**

- A. Regardless of the number of (1) insureds under this policy, (2) persons who sustain bodily injury or damage to property, (3) claims made or suits brought on account of bodily injury or damage to property of others or (4) motor vehicles to which this policy applies:
- (1) the limit of bodily injury liability stated in the declarations as applicable to "each person" is, the limit of the company's liability for all damages arising out of bodily injury sustained by one person as the result of any one accident.

- (2) the limit of such liability stated in the declarations as applicable to "each accident" is, subject to the above provision respecting "each person", the total limit of the company's liability for all such damages arising out of bodily injury sustained by two or more persons as the result of any one accident, and

- (3) with respect to coverage C and subject to paragraph C hereof, the limit of property damage liability stated in the declarations as applicable to "each accident" is the total limit of the company's liability for all damages arising out of injury to or destruction of all property of one or more persons or organizations as a result of any one accident.

B. With respect to coverage C, the company shall not refuse to pay a claim solely on the basis that the named insured failed to comply with the provisions of this policy relating to notice of accident by the named insured; provided, that the claimant forwards to the company written notice of the accident within thirty days thereof containing information sufficient to identify the named insured, the claimant, an itemized statement of the amount of the claim and also reasonably obtainable information with respect to the time, place and circumstances of the accident, the names and addresses of all operators and owners involved and of any available witnesses, and the location where the damage may be inspected by the company. Nothing contained herein shall prohibit a company so making a payment hereunder from pursuing against its named insured whatever remedies of indemnification arise out of its named insured's failure to comply with the provisions of this policy.

C. With respect to such insurance as is afforded under coverage C for property damage to any motor vehicle arising out of work completed by or for the named insured upon such motor vehicle or part thereof, \$100 shall be deducted from the total amount of all sums which the insured shall become legally obligated to pay as damages on account of property damage to such motor vehicle as a result of any one accident, and the limit of the company's liability shall be the difference between such deductible amount and the limit of property damage liability stated in the declarations, as applicable to coverage C. All the terms of this policy apply irrespective of the application of the deductible amount and the company may pay any part or all of the deductible amount to effect settlement of any claim or suit and, upon notification of the action taken, the insured shall promptly reimburse the company for such part of the deductible amount as has been paid by the company.

D. With respect to coverages J, K, L, M, N and O, the limit of the company's liability for loss to the insured motor vehicle shall not exceed the actual cash value or if the loss is of a part thereof the actual cash value of such part, at the time of loss, nor what it would then cost to repair or replace the motor vehicle or such part thereof with other of like kind and quality, with deduction for depreciation, nor the applicable limit of liability stated in the declarations. The company may pay for loss in money or, with the agreement of the insured, may repair or replace the motor vehicle or such part thereof, as aforesaid, or may take all or such part of the motor vehicle at the agreed or appraised value, but there shall be no abandonment to the company.

With respect to any loss, if the company does not receive a Completed Work Claim Form, or if the insured elects not to repair the insured motor vehicle, the company's liability for loss will be an amount equal to the decrease in the actual cash value of the insured motor vehicle less any deductible applicable thereto.

With respect to any loss to the insured motor vehicle, the company's liability for loss stated herein as applying to "actual cash value" shall include the amount of any sales tax applicable to the agreed or appraised loss to such motor vehicle.

With respect to coverages J and K, any payment due thereunder may be made either to the insured or to a repair shop as the insured may direct in writing.

With respect to coverages J and K, the company may require as a condition of continuing such coverage in effect that a vehicle for which total damage has been paid pass a motor vehicle safety inspection test.

With respect to subsections (b), (c) and (d) of coverage K, the named insured shall be entitled to payment whether or not all of the facts disclose the named insured is, or would have been, entitled to recovery in tort for such loss against another identified person.

- E If requested by the company, the insured shall replace the insured motor vehicle or part thereof or furnish the labor and materials necessary for repairs thereto and the company shall pay only the actual cost of labor and materials to the insured.
- F Any payment under coverage C shall be reduced by the full amount of any applicable deductible stated in the declarations.

### 3—NAMED INSURED'S DUTIES WHEN LOSS OCCURS—COVERAGES J, K, L, M, N AND O

When loss occurs, the named insured shall:

- (a) protect the insured motor vehicle, whether or not the loss is covered by this policy, and any further loss due to the named insured's failure to protect shall not be recoverable under this policy; reasonable expense incurred in affording such protection shall be deemed incurred at the company's request;
- (b) give notice thereof as soon as practicable to the company or any of its authorized agents and also, in the event of theft, larceny, robbery or pilferage, to the police on the prescribed form, but shall not, except at his own cost, offer or pay any reward for recovery of the insured motor vehicle;
- (c) file proof of loss with the company within 91 days after the occurrence of loss, unless such time is extended in writing by the company, in the form of a sworn statement of the named insured setting forth the interest of the named insured and of all others in the property affected, and encumbrances thereon, the actual cash value thereof at time of loss, the amount, place, time and cause of such loss, and the description and amounts of all other insurance covering such property.

Upon the company's request, the named insured shall exhibit the damaged property to the company and submit to examinations under oath by anyone designated by the company, subscribe the same and produce for the company's examination all pertinent records and sales invoices, or certified copies if originals be lost, permitting copies thereof to be made, all at such reasonable times and places as the company shall designate.

### 4—APPRAISAL—COVERAGES J, K, L, M, N AND O

If the named insured and the company fail to agree as to the amount of loss, each shall, on the written demand of either, made within 60 days after receipt of proof of loss by the company, select a competent and disinterested appraiser, and the appraisal shall be made at a reasonable time and place. The appraisers shall first select a competent and disinterested umpire, and failing for 15 days to agree upon such umpire, then, on the request of the named insured or the company, such umpire shall be selected by a judge of a court of record in the county and state in which such appraisal is pending. The appraisers

shall then appraise the loss, stating separately the actual cash value at the time of loss and the amount of loss, and failing to agree shall submit their differences to the umpire. An award in writing of any two shall determine the amount of loss. The named insured and the company shall each pay his or its chosen appraiser and shall bear equally the other expenses of the appraisal and umpire. The company shall not be held to have waived any of its rights by any act relating to appraisal.

### 5—AUTOMATIC REINSTATEMENT—COVERAGES J, K, L, M, N AND O

When the insured motor vehicle is damaged, whether or not such damage is covered under this policy, the liability of the company shall be reduced by the amount of such damage until repairs have been completed, but shall then attach as originally written without additional premium.

### 6—NO BENEFIT TO BAILEE—COVERAGES J, K, L, M, N AND O

The insurance afforded by this policy shall not inure directly or indirectly to the benefit of any carrier or bailee liable for loss to the insured motor vehicle.

### 7—ASSAULT AND BATTERY

Assault and battery shall be deemed an accident unless committed by or at the direction of the insured.

### 8—FINANCIAL RESPONSIBILITY LAWS—COVERAGES B AND C

When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, such insurance as is afforded by this policy under coverage B or C shall comply with the provisions of such law to the extent of the coverage and limits of liability required by such law, but in no event in excess of the limits of liability stated in this policy. The insured agrees to reimburse the company for any payment made by the company which it would not have been obligated to make under the terms of this policy except for such certification.

Except with respect to a financial responsibility filing as provided in the preceding paragraph, if the named insured has purchased coverage B and if under the provisions of the motor vehicle financial responsibility law or the motor vehicle compulsory insurance law or any similar law of any state or province but not including the requirements of any state or federal motor carrier law or regulations promulgated by any public or federal authority having jurisdiction with respect thereto, a nonresident is required to maintain insurance with respect to the operation or use of a motor vehicle in such state or province and such insurance requirements are greater than the insurance provided by this policy, the limits of the company's liability and the kinds of coverage afforded by this policy shall be as set forth in such law, in lieu of the insurance otherwise provided by this policy, but only to the extent required by such law and only with respect to the operation or use of a motor vehicle in such state or province; provided that the insurance under this provision shall be reduced to the extent that there is other valid and collectible insurance under this or any other motor vehicle insurance policy. In no event shall any person be entitled to receive duplicate payments for the same elements of loss.

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## PART III—EXPENSES FOR MEDICAL SERVICES

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**Coverage D—Automobile Medical Payments—**(This Coverage is Optional)

**Coverage E—Premises Medical Payments—**(This Coverage is Optional)

The company will pay all reasonable expenses incurred under coverage D within two years and under coverage E within one year from the date of accident for necessary medical, surgical, X-ray and dental services, including prosthetic devices, and necessary ambulance, hospital, professional nursing and funeral services:

- D. To or for each person who sustains bodily injury caused by accident, while occupying any motor vehicle which is being used by a person for whom insurance is afforded under coverage B with respect to such use;

- E. To or for each person who sustains bodily injury, caused by accident, and arising out of the ownership, maintenance or use of the premises for the purposes of a garage, and all operations necessary or incidental thereto;

provided, however, no expenses shall be payable under Part III of this policy which are payable, or would be payable but for the application of a deductible, under division 2 of coverage A of this policy or of any other Massachusetts motor vehicle liability policy.

It is further provided that no expenses shall be payable under Part III of this policy which are or may be recovered by way of judgment or settlement in any action at law if such expenses would otherwise have been payable under division 2 of coverage A of this policy or of any other Massachusetts motor vehicle liability policy.

## Exclusions

This policy does not apply:

under coverage D, to bodily injury:

- (1) sustained by any employee of an insured under coverage B arising out of and in the course of his employment by the insured;

under coverage E to bodily injury

- (2) sustained by

- (a) any person while occupying or through being struck by a motor vehicle away from the premises;
- (b) any person practicing, instructing or participating in any physical training, sport, athletic activity or contest;
- (c) the named insured, or any partner therein, or any employee of the named insured arising out of and in the course of his employment by the named insured;
- (d) any person while engaged in maintenance, alteration, demolition or new construction operations for the named insured or for any lessor of the premises;

- (3) to any expense for services by the named insured, any employee thereof, or any person or organization with whom the named insured has contracted to provide such services;

- (4) to structural alterations, new construction or demolition operations, for the named insured by independent contractors or their subcontractors, or omissions or supervisory acts of the insured in connection therewith;

under coverages D and E, to bodily injury.

- (5) sustained by an employee of any garage, if the accident arises out of the operation thereof and if benefits therefor are in whole or in part either payable or required to be provided under any workers' compensation law;

- (6) due to (a) war, whether or not declared, civil war, insurrection, rebellion or revolution, or any act or condition incident to any of the foregoing; or (b) resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

## CONDITIONS APPLICABLE TO PART III

### 1—DEFINITIONS

The definitions applicable to Part II apply to Part III.

### 2—LIMIT OF LIABILITY

Regardless of the number of (1) insureds under this policy, (2) persons who sustain bodily injury, (3) claims made or suits brought on account

of bodily injury or (4) motor vehicles to which this policy applies, the limit of liability for medical payments stated in the declarations as applicable, under coverage D or under coverages D and E, to "each person" is the limit of the company's liability for all expenses incurred by or on behalf of each person who sustains bodily injury as a result of any one accident.

## PART IV — GARAGEKEEPERS' LEGAL LIABILITY

I **Coverage F — Fire and Explosion** — (This Coverage is Optional)

**Coverage G — Theft** — (This Coverage is Optional)

**Coverage H — Riot, Civil Commotion, Malicious Mischief and Vandalism** — (This Coverage is Optional)

**Coverage I — Collision or Upset** — (This Coverage is Optional)

**Coverage P — Comprehensive (excluding Collision)** — (This Coverage is Optional.)

The company will pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of:

- F. loss to a motor vehicle caused by fire or explosion other than explosion of tires;
- G. loss to a motor vehicle caused by theft of the entire motor vehicle;
- H. loss to a motor vehicle caused by riot, civil commotion, malicious mischief or vandalism; provided, with respect to each motor vehicle \$25 shall be deducted from each loss caused by malicious mischief or vandalism;
- I. loss to a motor vehicle or other property of a kind customarily left in charge of a garage caused by collision of the motor vehicle or such property with another object or by upset thereof, but the deductible amount stated in the declarations as appli-

cable hereto shall be deducted from the total amount of all sums which the insured shall become legally obligated to pay as damages because of each loss, and the limit of the company's liability shall be the difference between such deductible amount and the limit of liability stated in the declarations;

- P. loss to a motor vehicle from any cause except collision. Breakage of glass and loss caused by missiles, falling objects, fire, theft, explosion, earthquake, windstorm or hail shall not be deemed loss caused by collision. The collision of a private passenger motor vehicle not used as a public conveyance and not owned and held for sale by an automobile dealer with a bird or animal shall not be deemed loss caused by collision.

occurring while such motor vehicle or other property is in the custody of the insured for safekeeping, storage, service or repair (1) at a location stated in this policy or while temporarily removed therefrom in the ordinary course of the insured's business, or (2) away from the premises if the insured is attending such motor vehicle or property; and the company shall have the right and duty to defend any suit against the insured seeking damages which are payable under the terms of this policy, even if any of the allegations of the suit are groundless, false, or fraudulent; but the company may make such investigation and settlement of any claim or suit as it deems expedient.

### II Supplementary Payments

The provisions of paragraph (b) of Defense, Settlement, Supplementary Payments in Part I are applicable to the insurance afforded under Part IV, except the provision with respect to expenses for first aid.

## Exclusions

This policy does not apply under Part IV:

- (1) to liability of the insured under any agreement to be responsible for loss;
- (2) to a motor vehicle or other property:
  - (a) owned by or rented to:
    - (i) the named insured or a partner therein or a member thereof, or the spouse of any one of them if a resident of the same household.

- (ii) an employee thereof or his spouse if a resident of the same household, unless the motor vehicle or other property is in the custody of the named insured under an agreement for which a specific pecuniary charge has been made, or

- (b) in the custody of the named insured for demonstration or sale;

- (3) to loss by theft due to any fraudulent, dishonest or criminal act by the named insured, a partner therein or employee, trustee or

authorized representative thereof, whether working or otherwise and whether acting alone or in collusion with others:

- (4) to loss arising out of the use of any elevator, or any automobile servicing hoist designed to raise an entire motor vehicle;
- (5) to defective parts, accessories or materials furnished or to faulty work performed on a motor vehicle, out of which loss arises:

- (6) to a motor vehicle or other property while the motor vehicle is being used in any prearranged or organized racing, speed or demolition contest, or in any stunting activity, or in practice or in preparation for any such contest or activity;
- (7) to loss due to (a) war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing; (b) radioactive contamination.

#### CONDITIONS APPLICABLE TO PART IV

##### 1 — DEFINITIONS

The definitions of "motor vehicle" or "automobile" and "trailer" in Part I and the definitions of "premises", "garage", and "elevator" in Part II apply to Part IV and as used in Part IV:

"insured" means (a) the named insured, (b) any employee, director or stockholder thereof while acting within the scope of his duties as such, and (c) if the named insured is a partnership, any partner therein but only with respect to his liability as such:

"loss" means direct and accidental loss or damage.

##### 2 — LIMIT OF LIABILITY

Subject to the application of any deductible, the limit of the company's liability for loss at each location shall be the limit of liability stated in the declarations as applicable thereto; if, however, at the time of loss there were at the location where the loss occurred motor vehicles of others in the custody of the insured in excess of the maximum number of motor vehicles indicated in the declarations for such location, the

company shall not be liable for a greater proportion of the amount for which it otherwise would be liable than the maximum number of such motor vehicles stated for such location bears to the number of motor vehicles at such location at the time the loss occurred.

Subject to the application of the deductible stated in the declarations, the limit of liability applicable to coverage I for loss to property of a kind customarily left in charge of a garage, other than motor vehicles, is \$5,000, which sum is included in the applicable limit of liability for loss at the location.

All of the terms of this policy apply irrespective of the application of any deductible amount and the company may pay any part or all of the deductible amount to effect settlement of any claim or suit and, upon notification of the action taken, the insured shall promptly reimburse the company for such part of the deductible amount as has been paid by the company.

Repairs by the named insured shall be adjusted at actual cost to him of labor and materials.

#### PART V — PROTECTION AGAINST UNINSURED OR UNDERINSURED MOTORISTS INSURING AGREEMENTS

##### Coverage U — Damages for Bodily Injury Caused By Uninsured Automobiles or Underinsured Automobiles — (This Coverage is Compulsory)

The company will pay such sums as the insured or his legal representative shall be legally entitled to recover as damages from the owner or operator of an uninsured automobile or underinsured automobile because of bodily injury, sickness or disease, including death resulting therefrom, hereinafter called "bodily injury", sustained by the insured, caused by accident and arising out of the ownership, maintenance or use of such uninsured automobile or underinsured automobile; provided, for the purpose of this coverage, determination as to whether the insured or such representative is legally entitled to recover such damages, and if so the amount thereof, shall be made by agreement between the insured or such

representative and the company, or, if they fail to agree, by arbitration. With respect to damages for bodily injury caused by uninsured automobiles, no sums shall be payable which are payable, or would be payable but for the application of a deductible under division 2 of coverage A of this policy or of any other Massachusetts motor vehicle liability policy.

No judgment against any person or organization alleged to be legally responsible for the bodily injury shall be conclusive, as between the insured and the company of the issues of liability of such person or organization or of the amount of damage to which the insured is legally entitled unless such judgment is entered pursuant to an action prosecuted by the insured with the written consent of the company, and, such consent shall not be unreasonably withheld.

##### Exclusions

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This policy does not apply under Part V:

- (1) to bodily injury to an insured with respect to which such insured, his legal representative or any person entitled to payment under this coverage shall, without written consent of the company, make any settlement with any person or organization who may be legally liable therefor;
- (2) to bodily injury to an insured while occupying an automobile (other than an insured automobile) owned by a named insured

or, if a resident of the same household as the named insured, his spouse or any relative of either or through being struck by such an automobile;

- (3) so as to inure directly or indirectly to the benefit of any workers compensation or disability benefits carrier or any person or organization qualifying as a self-insurer under any workers compensation or disability benefits law or any similar law.

#### CONDITIONS APPLICABLE TO PART V

##### I — DEFINITIONS

"insured" means:

- (1) the named insured as stated in Item 1 of the declarations (herein also referred to as the "principal named insured") and, while residents of the same household, the spouse of any such named insured and relatives of either;
- (2) any other person while occupying an insured automobile; and
- (3) any person, with respect to damages he is entitled to recover because of bodily injury to which this coverage applies sustained by an insured under (1) or (2) above.

The insurance applies separately with respect to each insured, but the application of the insurance to more than one insured shall not operate to increase the limits of the company's liability.

"insured automobile" means:

- (1) an automobile for which a specific coverage U premium has been charged under this policy, and includes any newly acquired motor vehicle with respect to which the bodily injury liability insurance of this policy applies; or
- (2) an automobile while temporarily used as a substitute for an insured automobile as described in subparagraph (1) above,

when withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction; or

- (3) an automobile, other than an insured automobile as described in subparagraph (1) above, while being operated by the named insured, or by his spouse if a resident of the same household;
- (4) but "insured automobile" shall not include:
  - (i) an automobile while used as a public or livery conveyance, unless such use is specifically declared and described in this policy;
  - (ii) an automobile while being used without the permission of the owner;
  - (iii) under subparagraphs (2) and (3) above, an automobile owned by the principal named insured or by any resident of the same household as such insured;
  - (iv) under subparagraphs (2) and (3) above, an automobile furnished for the regular use of the principal named insured or any resident of the same household.

**"uninsured automobile"** means:

- (1) an automobile with respect to the ownership, maintenance and use of which there is no bodily injury liability bond or insurance policy applicable at the time of the accident with respect to any person or organization legally responsible for the use of such automobile, or with respect to which there is a bodily injury liability bond or insurance policy applicable at the time of the accident but the company writing the same denies coverage thereunder or is or becomes insolvent; or
- (2) a hit-and-run automobile as defined;
- (3) but "uninsured automobile" shall not include:
  - (i) an automobile defined herein as an "insured automobile";
  - (ii) an automobile which is owned or operated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law or any similar law;
  - (iii) an automobile which is owned by the United States of America, Canada, a state, a political subdivision of any such government or an agency of any of the foregoing;
  - (iv) a land motor vehicle or trailer, if operated on rails or crawler-treads or while located for use as a residence or premises and not as a vehicle; or
  - (v) a farm type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

**"underinsured automobile"** means an automobile with respect to the ownership, maintenance and use of which the sum of the limits of liability under all bodily injury liability bonds, insurance policies and any other security provided by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law, or any similar law or provided by the United States of America, Canada, a state, a political subdivision or agency of any such government applicable at the time of the accident is insufficient to satisfy the damages sustained by the insured to the extent that said damages exceed said limits of liability; but "underinsured automobile" shall not include:

- (1) an uninsured automobile;
- (2) a land motor vehicle or trailer, if operated on rails or crawler-treads or while located for use as a residence or premises and not as a vehicle; or
- (3) a farm type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

**"hit-and-run automobile"** means an automobile which causes bodily injury to an insured arising out of physical contact of such automobile with the insured or with an automobile which the insured is occupying at the time of the accident, provided: (1) there cannot be ascertained the identity of either the operator or the owner of such "hit-and-run automobile"; (2) the insured or someone on his behalf shall have reported the accident within 24 hours to a police, peace or judicial officer or to the Registrar of Motor Vehicles, and shall have filed with the

company within 30 days thereafter a statement under oath that the insured or his legal representative has a cause or causes of action arising out of such accident for damages against a person or persons whose identity is unascertainable, and setting forth the facts in support thereof; and (3) at the company's request the insured or his legal representative makes available for inspection the automobile which the insured was occupying at the time of the accident.

**"automobile"** includes any motor vehicle or trailer.

**"occupying"** means in or upon or entering into or alighting from.

**"state"** includes the District of Columbia, a territory or possession of the United States, and a province of Canada.

## 2 — PROOF OF CLAIM; MEDICAL REPORTS

As soon as practicable, the insured or other person making claim shall give to the company written proof of claim, under oath if required, including full particulars of the nature and extent of the injuries, treatment, and other details entering into the determination of the amount payable hereunder. The insured and every other person making claim hereunder shall submit to examinations under oath by any person named by the company and subscribe the same, as often as may reasonably be required. Proof of claim shall be made upon forms furnished by the company unless the company shall have failed to furnish such forms within 15 days after receiving notice of claim.

The injured person shall submit to physical examinations by physicians selected by the company when and as often as the company may reasonably require and he, or in the event of his incapacity his legal representative, or in the event of his death his legal representative or the person or persons entitled to sue therefor, shall upon each request from the company execute authorization to enable the company to obtain medical reports and copies of records.

## 3 — NOTICE OF LEGAL ACTION

If, before the company makes payment of loss hereunder, the insured or his legal representative shall institute any legal action for bodily injury against any person or organization legally responsible for the use of an automobile involved in the accident, a copy of the summons and complaint or other process served in connection with such legal action shall be forwarded immediately to the company by the insured or his legal representative.

## 4 — LIMITS OF LIABILITY

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Regardless of the number of (1) insureds under this policy, (2) persons who sustain bodily injury, (3) claims made or suits brought on account of bodily injury or (4) automobiles to which this policy applies, the limit of liability stated in the declarations as applicable to "each person" is the limit of the company's liability for all damages, including damages for care and loss of services, because of bodily injury sustained by one person as the result of any one accident and, subject to the above provision respecting "each person", the limit of liability stated in the declarations as applicable to "each accident" is the total limit of the company's liability for all damages, including damages for care and loss of services because of bodily injury sustained by two or more persons as the result of any one accident.

With respect to damages for bodily injury caused by uninsured automobiles, any amount payable because of bodily injury sustained in an accident by a person who is an insured under this coverage shall be reduced by all sums paid on account of such bodily injury by or on behalf of (1) the owner or operator of the uninsured automobile and (2) any other person or organization jointly or severally liable together with such owner or operator for such bodily injury including all sums paid under coverage A or B of this policy.

Any amount payable because of bodily injury sustained in an accident by a person insured under this coverage shall be reduced by the amount paid and the present value of all amounts payable on account of such bodily injury under any workers' compensation law, disability benefits law or any similar law.

With respect to damages for bodily injury caused by underinsured automobiles, the company's liability shall be limited to the damages in excess of the limits of liability under all bodily injury liability bonds and insurance policies and any other security pro-

vided by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law, or any similar law or provided by the United States of America, Canada, a state, a political subdivision or agency of any such government applicable at the time of the accident, and the company shall not be obligated to make any payment under this insurance until such limits have been exhausted by payment of judgments or settlements.

Any payment made to or for any insured under this coverage shall be applied in reduction of the amount of damages which he may be entitled to recover from any person or organization who is an insured under coverage A or B of this policy.

## 5 — OTHER INSURANCE

With respect to bodily injury to an insured while occupying an automobile not owned by the principal named insured under this coverage, the insurance hereunder shall apply only as excess insurance over any other similar insurance available to such insured and applicable to such automobile as primary insurance. However, with respect to damages for bodily injury caused by uninsured automobiles, this insurance shall then apply only in the amount by which the limit of liability for this coverage exceeds the amount collectible by such insured under such other insurance.

Except as provided in the foregoing paragraph, if the insured has other similar insurance available to him and applicable to the accident, the damages shall be deemed not to exceed the higher of the applicable limits of liability of this insurance and such other insurance, and the company shall not be liable for a greater proportion of any loss to which this coverage applies than the limit of liability hereunder bears to the sum of the applicable limits of liability of this insurance and such other insurance.

## 6 — ARBITRATION

If any person making claim hereunder and the company do not agree that such person is legally entitled to recover damages from the owner or operator of an uninsured or underinsured automobile because of bodily injury to the insured, or do not agree as to the amount of payment which may be owing under this coverage, then, upon written demand of either, such matter or matters upon which such person and the company do not agree shall be settled by arbitration in accordance with the rules of the American Arbitration Association, or, at the option of either, in accordance with Chapter 251 of the General Laws of Massachusetts. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Such person and the company each agree to consider itself bound and to be bound by any award made by the arbitrators pursuant to such coverages.

## 7 — TRUST AGREEMENT

In the event of payment to any person under this coverage:

- (a) the company shall be entitled to the extent of such payment to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury because of which such payment is made;
- (b) such person shall hold in trust for the benefit of the company all rights of recovery which he shall have against such other person or organization because of the damages which are the subject of claim made under such coverages;
- (c) such person shall do whatever is proper to secure and shall do nothing after loss to prejudice such rights;
- (d) if requested in writing by the company, such person shall take, through any representative designated by the company, such action as may be necessary or appropriate to recover such payment as damages from such other person or organization, such action to be taken in the name of such person; in the event of a recovery, the company shall be reimbursed out of such recovery for expenses, costs and attorneys' fees incurred by it in connection therewith;
- (e) such person shall execute and deliver to the company such instruments and papers as may be appropriate to secure the rights and obligations of such person and the company established by this provision

## 8 — PAYMENT OF LOSS BY THE COMPANY

Any amount due hereunder is payable (a) to the insured, or (b) if the insured be a minor to his parent or guardian, or (c) if the insured be deceased to his surviving spouse, otherwise (d) to a person authorized by law to receive such payment or to a person legally entitled to recover the damages which the payment represents; provided, the company may at its option pay any amount due hereunder in accordance with division (d) hereof.

## 9—ACTION AGAINST COMPANY

No action shall lie against the company unless, as a condition precedent thereto, the insured or his legal representative has fully complied with all of the terms of this coverage nor unless within three years from the date of the accident:

- (a) suit for bodily injury has been filed against the owner or operator of the uninsured or underinsured automobile in a court of competent jurisdiction, or
- (b) agreement as to the amount due under such coverage has been concluded, or
- (c) the insured or his legal representative has formally instituted arbitration proceedings.

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## GENERAL CONDITIONS

Conditions 1, 3, 7, 12, 13, 14, 16, 17 and 18 apply to all Parts.  
The other conditions apply only to the Part or Parts noted thereunder.

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## 1 — PREMIUM

All premiums for this policy and any renewal or extension thereof shall be computed in accordance with the applicable rules, rates, rating plans, premiums and minimum premiums for the insurance afforded.

The premium stated in the declarations is an estimated premium only. The earned premium shall be computed upon termination of this policy. If the earned premium computed exceeds the estimated advance premium paid, the named insured shall pay the excess to the company; if less, the company shall return to the named insured the unearned portion paid by such insured.

The named insured shall maintain for each hazard records of the information necessary for premium calculation on the basis stated in the declarations, and shall send copies of such records to the company at the end of the policy period and at such times during the policy period as the company may direct.

## 2 — POLICY PERIOD; TERRITORY, PARTS I, II, III AND IV

Except with respect to division I of coverage A, this policy applies only to accidents which occur and to loss sustained during the policy period while the motor vehicle is within the United States of America, its territories or possessions, or Canada, or is being transported between ports thereof, and with respect to coverages J, K, L, M, N and O, if an insured motor vehicle is owned, maintained and used for the purposes stated as applicable thereto in the declarations.

## 3 — INSPECTION AND AUDIT

The company shall be permitted but not obligated to inspect the named insured's property and operations at any time. Neither the company's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of the named insured or others, to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule or regulation.

The company may examine and audit the named insured's books and records at any time during the policy period and extensions thereof and within three years after the final termination of this policy, as far as they relate to the subject matter of this insurance.

#### **4—SEVERABILITY OF INTERESTS, PARTS I AND II**

Except with respect to coverages J, K, L, M, N, O and division 2 of coverage A, the insurance applies separately to each insured against whom claim is made or suit is brought, but the inclusion herein of more than one insured shall not operate to increase the limits of the company's liability.

#### **5—TWO OR MORE MOTOR VEHICLES, PARTS I AND II**

Except with respect to coverages J, K, L, M, N, O and division 2 of coverage A, the terms of this policy shall apply separately to each motor vehicle insured hereunder but as respects limits of liability a motor vehicle and motor vehicles attached thereto or transported thereon shall be held to be one motor vehicle. With respect to coverages J, K, L, M, N, and O, when two or more motor vehicles are insured hereunder, the terms of this policy shall apply separately to each and a motor vehicle and a trailer or trailers attached thereto shall be held to be separate motor vehicles as respects limits of liability, including any deductible provisions.

#### **6—OTHER INSURANCE, PARTS I, II AND IV**

Except with respect to division 2 of coverage A, if the insured has other insurance against a loss covered by this policy, the company shall not be liable under this policy for a greater proportion of such loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of all valid and collectible insurance against such loss.

With respect to division 2 of coverage A, if there is other personal injury protection insurance available to the insured under Chapter 670 of the Acts of 1970 of the Commonwealth of Massachusetts and all Acts amendatory thereof or supplementary thereto or under the provisions of any other law providing for direct benefits without regard to fault for motor vehicle accidents, the benefits payable under all available policies shall not exceed the highest amount of benefits payable under any one policy (giving full effect to any applicable deductibles), considering each to be the only policy available, nor shall any person recover duplicate benefits for the same elements of loss. The company shall not be liable for a greater proportion of any amount of benefits claimed than the benefits payable under this policy (giving full effect to any applicable deductibles), if there were no other insurance, bear to the total of the benefits payable under this policy and all other policies (giving full effect to any applicable deductibles), considering each to be the only policy available. The amount of the company's liability thereby determined shall not be further reduced by any deductible amount otherwise applicable.

#### **Part III**

If there is other automobile or premises medical payments insurance applicable to expenses for bodily injury covered by this policy, the company shall not be liable under this policy for a greater proportion of such expenses than the applicable limit of liability under this policy bears to the total applicable limit of all valid and collectible automobile and premises medical payments insurance applicable to such expenses.

The above provisions shall not apply with respect to other insurance stated to be applicable to the loss and expenses only as excess insurance over any other valid and collectible insurance or on a contingent basis.

#### **7—NOTICE**

In the event of an accident or loss, written notice containing particulars sufficient to identify the insured and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of available witnesses, shall be given by or for the insured to the company or any of its authorized agents as soon as practicable.

In the event of theft, larceny, robbery or pilferage, the insured shall also promptly notify the police on the prescribed form. If claim is made or suit is brought against the insured he shall immediately

forward to the company every demand, notice, summons or other process received by him or his representative.

#### **8—ASSISTANCE AND COOPERATION OF THE INSURED, PARTS I, II AND IV**

The insured shall cooperate with the company and, upon the company's request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the insured because of bodily injury, including death at any time resulting therefrom, property damage or loss with respect to which insurance is afforded under this policy; and the insured shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The insured shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense other than expense under Part I for first aid to others at the time of accident or under division 2 of coverage A.

#### **Parts I and V**

Under Part V and division 2 of coverage A, after notice of claim, the company may require the insured to take such action as may be necessary or appropriate to preserve his right to recover damages from any person or organization alleged to be legally responsible for the bodily injury; and in any action against the company, the company may require the insured to join such person or organization as a party defendant.

#### **9—ACTION AGAINST COMPANY, PARTS I, II AND IV**

Except with respect to coverages J, K, L, M, N, O and division 2 of coverage A, no action shall lie against the company unless, as a condition precedent thereto, the insured shall have fully complied with all the terms of this policy, nor until the amount of the insured's obligation to pay shall have been finally determined either by judgment against the insured after actual trial or by written agreement of the insured, the claimant and the company.

With respect to coverages J, K, L, M, N and O, payment for loss may not be required nor shall action lie against the company unless, as a condition precedent thereto, the named insured shall have fully complied with all the terms of this policy nor until 30 days after proof of loss is filed and the amount of loss is determined as provided in this policy, provided, however, that payment under coverage J and subsection (b), (c) and (d) of coverage K shall be due within seven days after receipt by the company of the Completed Work Claim Form; provided further that if the company fails to make such payment within seven days the insured, may commence an action in contract against the company. If a court decides that the company was unreasonable in refusing to pay on time, the insured may be entitled to double the amount of his damage plus costs and reasonable attorneys' fees.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization, other than an insured, shall have any right under this policy to join the company as a party to any action against the insured to determine the insured's liability. Bankruptcy or insolvency of the insured or of the insured's estate shall not relieve the company of any of its obligations hereunder.

The statements in this condition which are contrary to provision (1) under division 1 of coverage A are not applicable to said division 1.

#### **Parts I and III**

Except with respect to division 1 of coverage A, no action shall lie against the company unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this policy.

#### **10—MEDICAL REPORTS; STATEMENT AND PAYMENT OF CLAIM, PARTS I AND III**

Except with respect to division 1 of coverage A, as soon as practicable the injured person or someone on his behalf shall give to the company written statement of claim, under oath if required, and shall, after each request from the company, execute authorization to enable the company to obtain medical reports and copies of records; the injured person shall submit to physical examinations by physicians selected by

the company when and as often as the company may reasonably require.

With respect to division 2 of coverage A such written statement shall in every case be presented within two years of the accident and shall include a written description of the nature and extent of injuries sustained, treatment received and contemplated and such other information as may assist the company in determining the amount due and payable. If benefits for loss of wages or salary (or in the case of the self-employed their equivalent) are claimed, the person presenting such a claim shall authorize the company to obtain details of all wage or salary payments, or their equivalent, paid to him by any employer in the year immediately preceding the date of accident, or earned by him, and authorize the company to make any reasonable and necessary investigation as to whether or not such loss may be reduced in whole or in part as a result of any program calling for the continuance of such wages, salary or earnings during absence from work.

With respect to division 2 of coverage A, if any person claiming or entitled to benefits thereunder brings an action in tort as a result of an accident which occurs outside the Commonwealth of Massachusetts against the owner or person responsible for the operation of any motor vehicle, benefits otherwise due such a person shall not become due and payable until a settlement is reached or a final judgment is rendered in such action, and the benefits then due shall be reduced to the extent that any expense, amount or payment otherwise subject to reimbursement thereunder is included in any such judgment or settlement.

With respect to Part III and division 2 of coverage A, the company may pay the injured person or any person or organization rendering the services and such payment shall reduce the amount payable hereunder for such injury. Payment hereunder shall not constitute an admission of liability of any person or, except hereunder, of the company.

#### **11 — SUBROGATION, PARTS I, II AND IV**

Except with respect to division 2 of coverage A, in the event of any payment under this policy, the company shall be subrogated to all the insured's rights of recovery therefor against any person or organization and the insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The insured shall do nothing after loss to prejudice such rights.

With respect to division 2 of coverage A, the company shall be subrogated to all the insured's rights of recovery, to the exact extent of the benefits paid, against any person or organization who is not exempt from liability under the provisions of Chapter 670 of the Acts of 1970 of the Commonwealth of Massachusetts and the insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The insured shall do nothing after loss to prejudice such rights.

#### **12 — CHANGES**

Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the company from asserting any right under the terms of this policy; nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy.

#### **13 — ASSIGNMENT**

Assignment of interest under this policy shall not bind the company until its consent is endorsed hereon; if however (a) the named insured shall die, this policy shall cover (1) the named insured's legal representative as the named insured, and (2) under Part I and coverages B and C, subject otherwise to the "Definition of Insured" paragraph in Part II, any person having proper temporary custody of a motor vehicle to which the insurance applies, as insured, until the appointment and qualification of such legal representative, or (b) the named insured shall, within the policy period, lose his right to possession of the motor vehicle because of his insolvency or bankruptcy, this policy shall cover under Part I and coverages B and C, the legal representative of the named insured's estate as the named insured.

#### **14 — TWO OR MORE POLICIES**

If the named insured has other insurance against a loss covered by this policy and such other insurance was issued by the company, the limit of the company's liability for that loss under all such poli-

cies combined is the highest limit of liability for the applicable coverage in any one of such policies.

#### **15 — CANCELLATION**

The named insured can cancel all of the compulsory coverages and any of the optional coverages by giving the Company at least twenty days written notice. The compulsory coverages cannot be cancelled separately.

The company can cancel the policy or any one or more of the coverages if:

1. The premium on this policy has not been paid.
2. The named insured was held to be responsible for fraud or material misrepresentation when application was made for the policy or any extension or renewal of it.
3. The operator's license or motor vehicle registration of the named insured has been under suspension or revocation during the policy period.

If the operator's license or motor vehicle registration of anyone residing in the same household as the named insured and who usually operates a motor vehicle insured under this policy has been under suspension or revocation during the policy period, the company may suspend the optional coverages under this policy for that person. The company may also reduce the limits available for that person under Coverage U and Coverage C to the minimum limits the company is required to sell.

For reasons other than those listed above, within the first 90 days of the policy period, the company can cancel coverage limits which are higher than the limits the company is required to sell by law and any coverages designed to reduce the deductible set by law.

Under Massachusetts law, this policy automatically terminates at once if:

1. The registration plates for an insured motor vehicle are returned to the Registry of Motor Vehicles.
2. The named insured purchases a new policy with another company for an insured motor vehicle and files a new Certificate of Insurance with the Registry of Motor Vehicles.

The termination of coverage applies only to the insured motor vehicle involved in one of the situations described above.

Any notice of cancellation will be sent to the named insured at the last address shown on this policy at least 20 days prior to the effective date. A notice sent by Registered or Certified mail, Return Receipt Requested, will be considered sufficient notice.

In order to cancel the rights of any loss payee shown on the policy, a notice of cancellation must also be sent to the loss payee in a similar manner.

If the company cancels the policy in its entirety, the cancellation is not effective unless the company sends the required notice to the Registry of Motor Vehicles.

Refunds of any premium will be sent to the named insured as soon as possible. If the company cancels, the amount of the refund will be determined by a pro rata table and procedures based on the number of days the insurance for an insured motor vehicle was in effect. If the policy is cancelled by the named insured or by law, the refund will be less than proportional to the time involved. It will be based instead on a "short rate" table and procedures which compensate the company for its expenses in servicing the policy.

A cancellation by the company can be appealed to the Board of Appeals on Motor Vehicle Liability Policies and Bonds by the named insured. The cancellation notice explains how to appeal.

#### **16 — RENEWAL**

Renewal of this policy is controlled by laws similar to those which control cancellation. The named insured may renew all or any of the coverages of this policy except those which the law does not require the company to sell. The company is not required to renew the policy if it plans to do no further business in Massachusetts or if the Commissioner of Insurance allows the company to reduce its volume of

automobile insurance business. If the company intends not to renew the policy or any of its coverages, a notice must be mailed to the named insured at the last address shown on the policy at least 45 days before the policy expires. A notice sent by Registered or Certified mail, Return Receipt Requested, will be considered sufficient notice. If the company requires a renewal application, and the named insured fails to complete and return it to the company within the specified time, the company can cancel the renewal policy.

**17 — FALSE INFORMATION**

If the named insured or someone on his behalf has given the company false information in any application regarding the place of

principal garaging or the name of operators of the insured motor vehicle, required to be listed, the company may refuse to pay claims under any or all of the coverages except compulsory coverages A, C and U

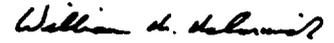
**18 — DECLARATIONS**

By acceptance of this policy the named insured agrees that the statements in the declarations are his agreements and representations, that this policy is issued in reliance upon the truth of such representations and that this policy embodies all agreements existing between himself and the company or any of its agents relating to this insurance.

IN WITNESS WHEREOF, the Company has caused such of the foregoing endorsements as are made a part of the policy to be signed by its President and Secretary, but they shall not be binding upon the Company unless completed by a declarations page and countersigned on the aforesaid declarations page by a duly authorized agent of the Company.



SECRETARY



PRESIDENT

0097-0394

EPA0291



9 Pond Lane  
Suite 3-A  
Concord, MA 01742-2851  
(508) 371-1422  
FAX (508) 369-9279

November 12, 1997

Mr. and Mrs. Clifford Boutwell  
278 Salem Street  
Woburn, MA 01801

**SUBJECT:** Easement Agreement for utility lines to the Wildwood Property

Dear Mr. and Mrs. Boutwell

Enclosed is a copy of the executed Easement Agreement for the subject site. Thank you for your assistance in this manner. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

REMEDICATION TECHNOLOGIES, INC.

A handwritten signature in black ink, appearing to read "R. Block", with a long horizontal line extending to the right across the page.

Robert N. Block, P.E.  
Principal

RNB:lj

Enclosure

0097-0395

## **EASEMENT AGREEMENT**

This Easement Agreement is entered into this third day of November, 1997 by and between Wildwood Conservation Corporation ("Grantee"), Beatrice Company ("Beatrice") and Clifford C. Boutwell and Grace E. Boutwell ("Grantor").

### **WHEREAS:**

Beatrice has agreed to carry out Remedial Designs/Remedial Action ("RD/RA") activities on certain property owned by Grantee located in Woburn, Massachusetts, and shown as Lot 1 on Land Court Plan 32181A, Lot 2 on Land Court Plan 32181A and Lot 3 on Land Court Plan 3507D (the "Wildwood Property") as part of the Wells G & H Superfund Site Remediation pursuant to Paragraph 8 and Schedule A of the Consent Decree entered in an action captioned United States of America, et al. vs. Wildwood Conservation Corporation, Civil Action No. 91-11807MA, which Consent Decree was lodged with the United States District Court for the District of Massachusetts on July 8, 1991; and

To perform the RD/RA on the Wildwood Property, Beatrice needs utility lines below ground for natural gas, potable water and connections to the Salem Street sewer line for sanitary waste and wastewater treatment system discharge water and above ground electrical lines; and

The Wildwood Property does not abut any public or private street and is entirely surrounded by property owned by others; and

Grantor is willing to provide Grantee and Beatrice with continued access along the access road on the property of Grantor for trucks and equipment needed in connection with the construction and operation of RD/RA activities on the Wildwood Property and subsurface utility lines for natural gas, potable water and discharge lines for sanitary waste and wastewater treatment

system discharge water and above ground electrical lines; and

This access will be required continuously throughout performance of the RD/RA activities for the subsurface utility lines and, above ground electrical lines and, although not continuously, at various times throughout the performance of the RD/RA activities for vehicle access; and

Grantor desires to cooperate with Beatrice in the performance of the RD/RA work on the Wildwood Property.

NOW THEREFORE, in consideration of the above, Five Thousand and 00/100 Dollars (\$5,000) and of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the parties hereto covenant and agree as follows:

1. Grantor, subject to the terms, covenants, conditions, limitations and restrictions contained herein, grants to Grantee and its representatives, contractors and subcontractors, and to Beatrice in its capacity as a party to the aforementioned Consent Decree, and its representatives, contractors and subcontractors, an easement appurtenant to the Wildwood Property across certain property owned by Grantor in the City of Woburn, Massachusetts, and described on Schedule A attached hereto, which easement is indicated as the "Easement Area" on Exhibit A attached hereto, for purposes of:

a. installation, repair, maintenance and replacement of subsurface utility lines for natural gas, potable water and discharge lines for sanitary waste and wastewater treatment system discharge water in connection with the RD/RA work on the Wildwood Property; and

b. installation, repair, maintenance and replacement of above ground electrical lines

in connection with the RD/RA work on the Wildwood Property; and

c. access for vehicles and equipment used in connection with the RD/RA work on the Wildwood Property.

2. Grantor acknowledges that the RD/RA work will be performed by Beatrice or by representatives, contractors and subcontractors of Beatrice and that Grantee's performance of the Work may require physical disturbance of the Easement Area. Grantor hereby agrees to release Grantee, Beatrice, and their respective representatives, contractors and subcontractors from any and all claims, including subrogation claims, legal responsibility or liabilities resulting from temporary disruption to Grantor's reasonable and normal use of the Easement Area in connection with the RD/RA work.

3. By accepting this Easement Agreement Beatrice agrees to restore the grade and condition of the Easement Area to the grade and conditions that existed prior to Grantee's Work in the Easement Area.

4. By accepting this Easement Agreement Beatrice agrees to defend and indemnify Grantor from all claims, suits, costs and damages asserted against, or incurred by, Grantor regarding any claim for personal injuries suffered by any person arising from the performance by Beatrice or its employees, contractors or agents of the RD/RA work in the Easement Area.

5. Nothing herein shall be construed as an admission by any party of any fact or legal liability in connection with any claims or demands of the United States, the Commonwealth of Massachusetts or any other party.

6. Nothing herein shall be constructed as a compromise, waiver or release of any claims, demands, actions or liability which any of the parties may have as between and among each

other and concerning any citations, acts, omissions or circumstances relating to the Wells G & H Site or which arise separately from the terms of this Agreements.

7. By accepting the easement agreement, Beatrice agrees the Grantor need not disclose the existence of any subsurface structures, piping or other items of which Grantor is aware, or of any hazardous or dangerous conditions of which it is aware.

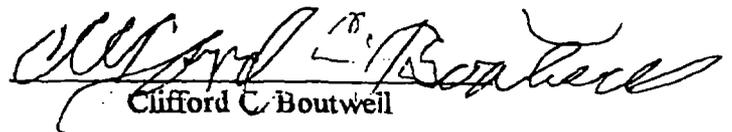
8. This Agreement may only be modified in writing by an authorized representative of Grantor and Beatrice.

9. The rights and obligations of this Agreement shall inure to the benefit of and/or be binding on the parties hereto, their officers, directors, agents and employees, their successors, assigns and contractors.

10. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together will constitute one document.

11. This Agreement constitutes the entire agreement between the parties as to this subject matter and there are no verbal or collateral understandings, agreements, representations, or warranties not expressly set forth herein.

Dated: 11/3/97

  
Clifford C. Boutwell

  
Grace E. Boutwell

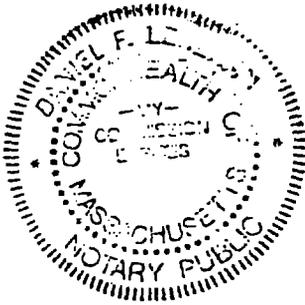
**COMMONWEALTH OF MASSACHUSETTS**

County of Middlesex, ss.

October 21, 1997



On this third day of November, 1997, before me appeared [Clifford C. Boutwell]  
[Grace E. Boutwell] and acknowledged this instrument to be [his] [her] free act and deed.



*Daniel F. L. Health*  
Notary Public  
My Commission Expires: *July 10 2003*

# REI/EC

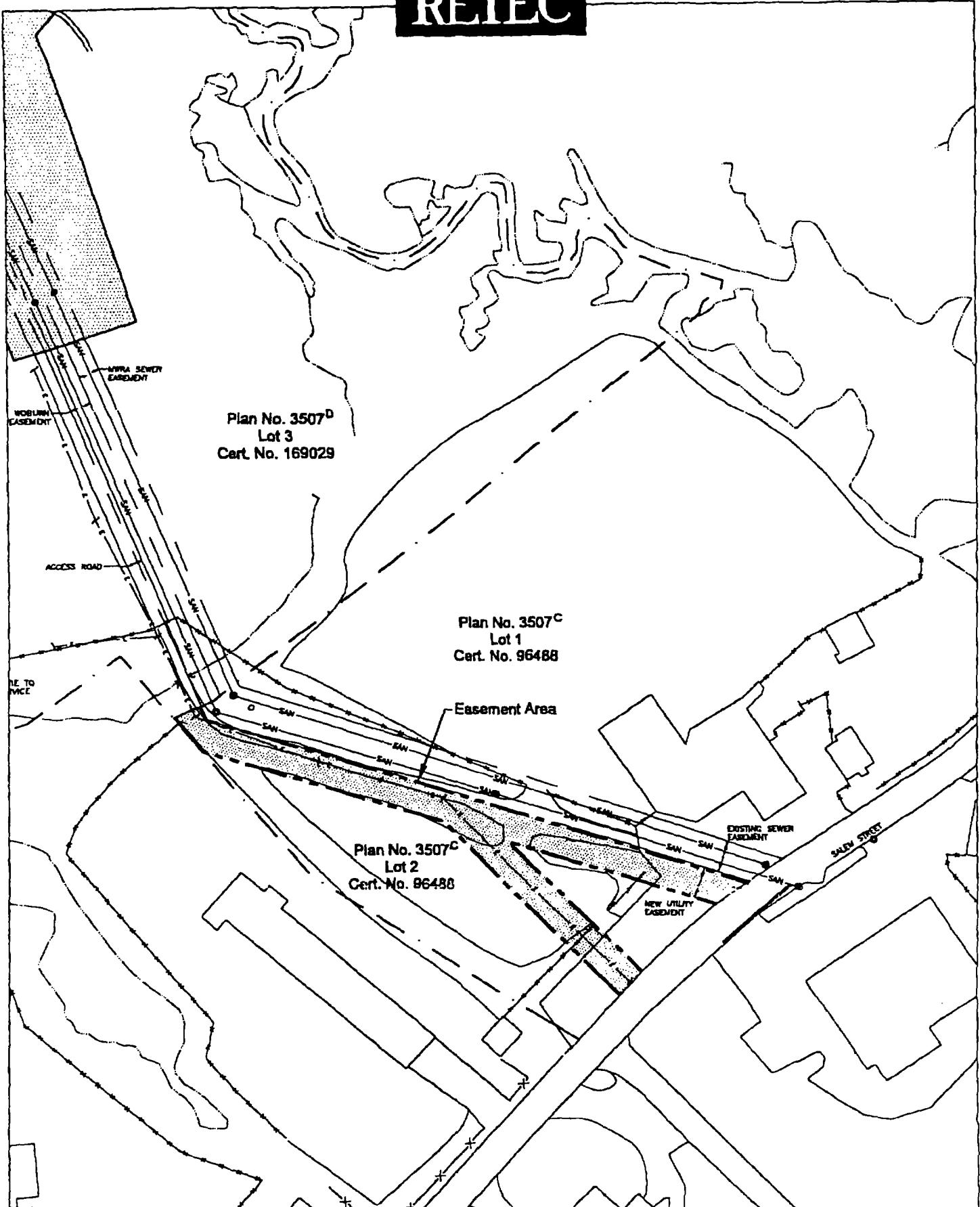


Exhibit A

0097-0401

0947S204  
FIGURE

EPA0298

# NOTICE

These premises are protected by a manhole trap, or separator, usually located outside, it is designed to prevent combustible (ex) gasoline, etc., from getting into the sanitary sewers, by way of your floor drains.

This manhole consists of a sump at the bottom, a discharge pipe about 2 feet above the bottom, an inlet and vent pipe, both near the top, under the cover.

Manhole cover, when outside, should have a small  $\frac{3}{8}$ "(inch) hole for maximum ventilation.

## MAINTENANCE AND PROPER CARE OF MANHOLE

- 1 - Manhole sump should be cleaned periodically - to prevent floor drains from clogging.
- 2 - Manhole should be kept full of water - to seal off premises from sewer gases backing up through floor drains. Also, as a pool for combustibles to float on and evaporate through the vent pipes.

MANHOLE LOCATION OUTSIDE, LEFT SIDE OF BUILDING

Please Post This Information  
and  
Comply With These Instructions  
For Your Protection

0097-0402

EPA0299

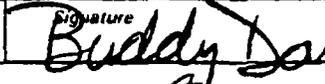
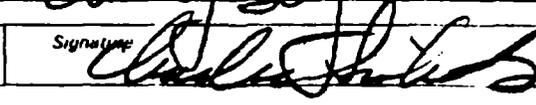
MASSACHUSETTS WATER RESOURCES AUTHORITY  
SEWERAGE DIVISION  
Charlestown Navy Yard  
100 First Avenue  
Boston, MA 02129

DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING  
 DIVISION OF SOLID AND HAZARDOUS WASTE

One Winter Street  
 Boston, Massachusetts 02108

33792

Form designed for the portable (12 pitch) typewriter.

INFORMATION HAZARDOUS WASTE MANIFEST		1. Generator US EPA ID No. <b>MA P 000002034200086</b>		Manifest Document No. <b>00086</b>		2. Page 1 of 1		Information not required areas Information not required by Federal law	
Generator Name and Mailing Address <b>Aberjona Auto Parts                  278 Salem St. Woburn, MA 01801</b>				A. State Manifest Document Number <b>MA C036986</b>		B. State Gen. ID <b>Same</b>			
Generator Phone # <b>617 933-4440</b>				C. State Trans. ID <b>MA 332-815</b>		D. Transporter's Phone # <b>617 344-0265</b>			
Generator 1 Company Name <b>Cyn Bil Corporation</b>				6 US EPA ID Number <b>MA D 082303777</b>		E. State Trans. ID			
Generator 2 Company Name <b>Environmental Waste Technology</b>				8 US EPA ID Number		F. Transporter's Phone #			
Generator 3 Company Name <b>Environmental Waste Technology</b>				10 US EPA ID Number <b>CT D 072138969</b>		G. State Facility's ID Not Required			
Generator 4 Company Name <b>Waterbury, CT 06702</b>				10 US EPA ID Number		H. Facility's Phone # <b>203 755-2283</b>			
Waste Description (includes proper Shipping Name, Hazard Class, and ID Number)						12 Containers No. Type	13 Total Quantity	14 Total Weight	15 Waste No.
<b>Hazardous Waste Solid NOS OMF-E MA9189</b>						<b>006 DM</b>	<b>03600</b>	<b>0</b>	<b>M001</b>
Waste Descriptions for Materials Listed Above (include physical state and hazard code)						K. Handling codes for Waste Listed Above <b>TO42                  Chemical fixation                  prior to Landfill                  shipment</b>			
<b>oily solids                  CRO-2                  NON RCRA HAZARDOUS</b>									
Special Handling Instructions and Additional Information <b>Stream 042878</b>									
16 GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations.									
If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment. OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.									
Transporter 1 Name <b>BUDDY DAY</b>				Signature 		Date <b>01/18/87</b>			
Transporter 1 Acknowledgement of Receipt of Materials									
Transporter 2 Name <b>CHARLES SIAKOTOS</b>				Signature 		Date <b>04/09/87</b>			
Transporter 2 Acknowledgement of Receipt of Materials									
Manifest Typed Name				Signature		Date			
Manifest Typed Name									
Signature									
Date									

EPA0300

City, State, or Operator Acknowledgement of receipt of hazardous materials covered by this manifest except as noted within 19

BRUCE HILLMAN  
 Signature  
  
 Date  
**04/09/87**

DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING  
 DIVISION OF SOLID AND HAZARDOUS WASTE  
 One Winter Street  
 Boston, Massachusetts 02108

Form designed by (12 inch) typewriter

<b>HAZARDOUS WASTE MANIFEST</b>	1. Generator US EPA ID No <b>MA 00002034100085</b>	Manifest Document No.	2. Page of <b>1</b>	3. Information not required	4. Information not required
Name and Mailing Address <b>Aberjona Auto Parts 278 Salem St. Woburn, MA 01801</b>			A. State Manifest Document Number <b>MA C216585</b>		
Phone ( ) <b>617 933-4440</b>			B. State Gen ID <b>Same</b>		
Company Name <b>GEN CO. CORPORATION</b>			C. State Trans ID		
Company Address <b>71 WASHINGTON STREET DOUGLTON, MA 02072</b>			D. Transporter's Phone ( ) <b>344-0265</b>		
6. US EPA ID Number <b>MA D 0 8 2 3 0 3 7 7 7</b>			E. State Trans ID		
10. US EPA ID Number			F. Transporter's Phone		
7. US EPA ID Number			G. State Facility's ID <b>Not Required</b>		
8. US EPA ID Number			H. Facility's Phone ( ) <b>344-0265</b>		

9. Waste description (Including proper Shipping Name, Hazard Class, and ID Number)	12. Containers		13. Total Quantity	14. Unit Vol	15. Waste No.
	No.	Type			
<b>WASTE PETROLEUM OILS N.O.S. COMBUSTIBLE LIQUID NA 1270</b>	<b>0 0 1</b>	<b>T T</b>			<b>W 0 U 1</b>

16. Options for Materials Listed Above (include physical state and hazard code.) c. _____ d. _____	K. Hazarding Codes for Materials Listed Above a. _____ b. _____
--	---

17. Handling Instructions and Additional Information

18. I HEREBY CERTIFY that the contents of this shipment are fully and accurately described above by the generator, packer, marketer, and transporter, and are in respect to proper condition for transport by highway in accordance with applicable federal and state regulations.

19. I, the generator, certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree that is economically practicable and that I have made a good faith effort to minimize my waste generation and select the best waste management method for the waste.

20. I, the generator, hereby acknowledge receipt of materials Name: _____ Signature: _____	Date: _____ Month: _____ Day: _____ Year: _____
21. A. Knowledge of Receipt of Materials Name: _____ Signature: _____	Date: _____ Month: _____ Day: _____ Year: _____
22. B. Knowledge of Receipt of Materials Name: _____ Signature: _____	Date: _____ Month: _____ Day: _____ Year: _____

EPA0301

23. I, the generator, hereby acknowledge receipt of hazardous materials covered by this manifest except as noted in Item 19.

Name: <b>E. MCCARTH</b> Signature: _____	Date: _____ Month: _____ Day: _____ Year: _____
---	--

701 (Rev. 9-80) Previous editions are obsolete.

MASSACHUSETTS WATER RESOURCES AUTHORITY  
CHARLESTOWN NAVY YARD  
100 FIRST AVENUE  
BOSTON, MASSACHUSETTS 02129

TELEPHONE:  
(617) 242-6000

S. HOYLE  
CHAIRMAN

April 23, 1987

AMERIONA AUTO PARTS  
278 Salem Street  
Woburn, MA 01801

ATTENTION: Bill Boutwell

Dear Mr. Boutwell:

SUBJECT: Gasoline/Oil Separator Maintenance

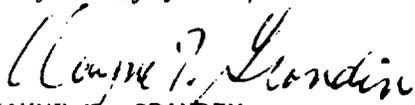
As a result of an inspection of your 278 Salem Street facility by Daniel R. Thompson of my staff, it was revealed that your gasoline/oil separator located on the right side of the building is not receiving appropriate servicing and maintenance.

Therefore, this office is requiring immediately that:

1. Your company have the subject gasoline/oil separator cleaned out by a licensed water hauler and submit a copy of the associated documents and receipts to this office with notification of the date of cleaning in order that we may reinspect the separator.
2. Your company submit a schedule for regular maintenance to this office.

If this office can be of further assistance or clarification, please do not hesitate to contact Charles W. Lombardi at 242-7310, extension 2208.

Very truly yours,

  
WAYNE T. GRANDIN  
Director, Water Quality

DRT:lj

cc: C. McGondel, Plumbing Inspector

EPA0302

0097-0405

# 20 A, B, C etc.



1771 Washington St.  
Stoughton, MA 02072

Phone: 1-617-344-0265 or 1-800-242-5818

INVOICE

DATE	April 6, 1987
NUMBER	

Aberjona Auto Parts		
278 Salem Street		
Woburn, MA 01801		

TERMS: Net 15

\$ 3,950.00

PLEASE DETACH AND RETURN WITH YOUR REMITTANCE

DATE	CHARGES AND CREDITS	BALANCE
	BALANCE FORWARD	
3-31	Pump and clean (1) separator of oil and water, (6) 55 gallon drums of oily solids left on-site for pickup at later date.	
	Separator cleaning	\$1,850.00
	Disposal of (6) 55 gallon drums @ \$350.00 each	2,100.00
	Ticket #38978	
	<i>Check # 11479</i>	
	A MONTHLY SERVICE CHARGE OF 1 1/2% WILL BE CHARGED AFTER THIRTY DAYS. ANNUAL INTEREST RATE 18%.	\$3,950.00

CYN OIL CORP.

Thank You

PAY LAST AMOUNT IN THIS COLUMN

EPA0303

0097-0406

**IMPORTANT NOTICE**  
**GENERAL LIABILITY INSURANCE**  
**CHANGE IN POLLUTION LIABILITY COVERAGE**

This is a summary of the major pollution liability coverage changes in your policy. If there is any conflict between the policy and this summary, the provisions of the policy apply.

The pollution exclusion appearing in the policy has been replaced by Pollution Exclusion Endorsement IL 09 28.

The original policy language provides that coverage for pollution is excluded if the introduction of the pollutants is other than "sudden and accidental." Endorsement IL 09 28 excludes the insured's bodily injury and property damage liability arising out of pollutants introduced at or from particular locations or through certain activities whether the introduction of pollutants is sudden and accidental or non-sudden and gradual. Specifically, pollution damages at or from premises owned by or rented to the named insured or at or from any premises used for the handling, storage, disposal, etc. of waste are totally excluded. Pollution damages are also totally excluded if they result from the transportation or handling of waste in any manner. In addition, pollution damages arising out of any operations performed by or on behalf of the insured to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize the pollutants are totally excluded.

To clarify intent, clean up costs and other associated or similar costs are specifically excluded.

The exclusion does not apply to damages arising out of the insured's products or completed operations (if coverage for such hazard is provided by the policy), nor to other off-premises discharges of pollutants not specifically excluded.

These reductions and broadenings are outlined below.

<b>Reductions</b>	<b>Broadenings</b>
<b>Sudden and accidental emissions of pollution:</b> <ul style="list-style-type: none"><li>o at or from insured premises;</li><li>o at or from a site used for the handling, storage, disposal, processing or treatment of wastes;</li></ul>	<b>Non-sudden or gradual emissions of pollutants (other than waste)</b> <ul style="list-style-type: none"><li>o arising out of the products/completed operations hazard (if coverage for such hazard is provided by the policy); c</li></ul>

**Reductions (Cont'd.)**

- o if the pollutants are transported, handled, stored, treated, disposed of, or processed as waste;
- o if the pollutants are brought to a job site in connection with the operations being performed at that site; or
- o if the operations involve testing for, monitoring, clean up, removing, containment, treatment, detoxification or neutralization of pollutants.

**Broadenings (Cont'd.)**

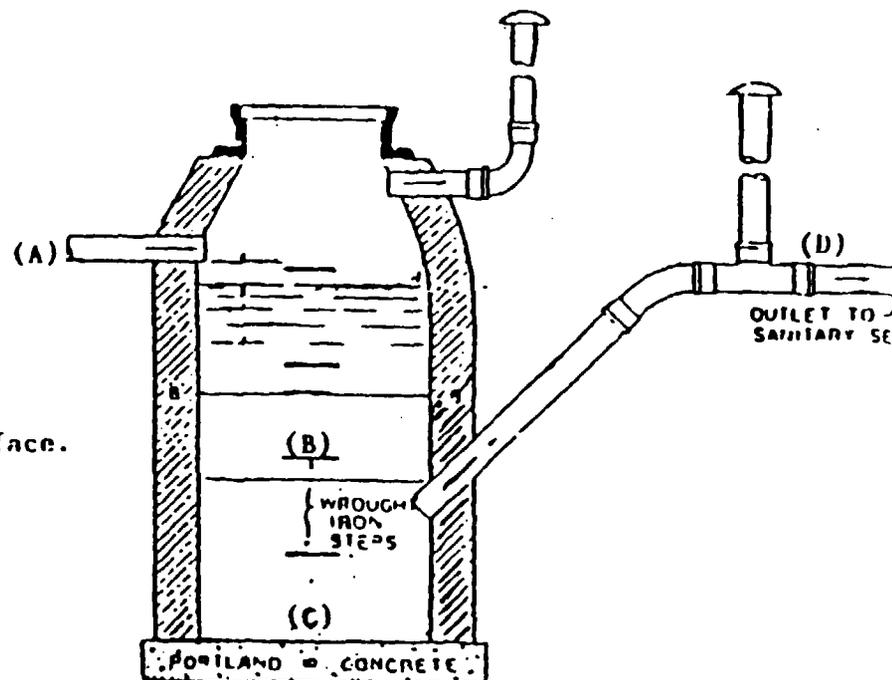
- o occurring away from insured premises in connection with ongoing operations if:
  - o the pollutants are not brought on the site in connection with operations and
  - o operations do not involve testing for, monitoring, clean up, removing, containment, treatment, detoxification or neutralization of pollutants.

MASSACHUSETTS WATER RESOURCES AUTHORITY  
SEWERAGE DIVISION  
GASOLINE/OIL SEPARATOR

PURPOSE: To prevent oil, grease, and petroleum products from entering the sanitary sewer system.

OPERATION:

- (A) Wastewater from floor drains enters the separator.
- (B) The oil and grease portion of the wastewater floats on the surface.
- (C) Solids in the wastewater settle to the bottom.
- (D) The water portion enters the sanitary sewer system through the discharge piping.



GENERAL MAINTENANCE:

- \* Waste oil and antifreeze should not be disposed of through the floor drains.
- \* Dirt, oil, absorbent material, and other debris should be kept from going into the drains.
- \* Separator should be visually inspected periodically and any accumulated solids or material in the sump removed as needed.

0097-0409

8/10

LN- 5027010001

No- 10/22/01

OCT 01 C81

NKA FLEET

**STERLING BANK  
MORTGAGE**

**THIS MORTGAGE** is made this 20th day of August, 1993, between the Mortgagor, Clifford C. Boutwell and Grace E. Boutwell, husband and wife, both of Woburn, Middlesex County, Massachusetts (herein "Borrower"), and the Mortgagee, **STERLING BANK** a corporation organized and existing under the laws of the Commonwealth of Massachusetts, whose address is One Moody Street, Waltham, Massachusetts 02154 (herein "Lender").

**WHEREAS**, Borrower is indebted to Lender in the principal sum of U.S. Sixty Thousand and 00/100 (\$60,000.00) Dollars which indebtedness is evidenced by Borrower's note dated August 20, 1993 and extensions and renewals thereof (herein "Note"), providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on August 26, 2003.

**TO SECURE** to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon; the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant and convey to Lender, with power of sale, the following described property located in Woburn, in the County of Middlesex, Commonwealth of Massachusetts:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF

**THIS SECURITY INSTRUMENT** is subject and subordinate to a first mortgage from Borrower to Woburn Five Cents Savings Bank in the original principal amount of \$70,000.00 (the "First Mortgage") dated March 27, 1990 and filed with the Middlesex South District Registry of Deeds at Book 20452, Page 42 as assigned to Sterling Bank by assignment dated February 26, 1992 and recorded with the Middlesex South District Registry of Deeds at Book 22605, Page 217.

26.00

635

MSD 08/26/93 12:19:50

which has the address of **280 Salem Street,** **Woburn,**  
[Street] [City]  
**Massachusetts 01801** (herein "Property Address");  
[Zip Code]

MASSACHUSETTS - SECOND MORTGAGE-1/80-FNMA/FHLMC UNIFORM INSTRUMENT

Form 3822

Unregistered Land only.

EPA0091

1300019

0097-0410

**TOGETHER** with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents, all of which shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are hereinafter referred to as the "Property."

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, and that the Property is unencumbered, except for encumbrances of record. Borrower covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

**UNIFORM COVENANTS.** Borrower and Lender covenant and agree as follows:

**1. Payment of Principal and Interest.** Borrower shall promptly pay when due the principal and interest indebtedness evidenced by the Note and late charges as provided in the Note.

**2. Funds for Taxes and Insurance.** Subject to applicable law or a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments of principal and interest are payable under the Note, until the Note is paid in full, a sum (herein "Funds") equal to one-twelfth of the yearly taxes and assessments (including condominium and planned unit development assessments, if any) which may attain priority over this Mortgage and ground rents on the Property, if any, plus one-twelfth of yearly premium installments for hazard insurance, plus one-twelfth of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof. Borrower shall not be obligated to make such payments of Funds to Lender to the extent that Borrower makes such payments to the holder of a prior mortgage or deed of trust if such holder is an institutional lender.

If Borrower pays Funds to Lender, the Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a Federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said taxes, assessments, insurance premiums and ground rents. Lender may not charge for so holding and applying the Funds, analyzing said account or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of this Mortgage that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Mortgage.

If the amount of the Funds held by Lender, together with the future monthly installments of Funds payable prior to the due dates of taxes, assessments, insurance premiums and ground rents, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due,

such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as Lender may require.

Upon payment in full of all sums secured by this Mortgage, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 17 hereof the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Mortgage.

**3. Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraphs 1 and 2 hereof shall be applied by Lender first in payment of amounts payable to Lender by Borrower under paragraph 2 hereof, then to interest payable on the Note, and then to the principal of the Note.

**4. Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any.

**5. Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to lender. Lender shall have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

**6. Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents.

**7. Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

Any amounts disbursed by Lender pursuant to this paragraph 7, with interest thereon, at the Note rate, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph 7 shall require Lender to incur any expense or take any action hereunder.

**8. Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Property.

**9. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

**10. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower and Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

**11. Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 16 hereof. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Note, (a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the Property to Lender under the terms of this Mortgage, (b) is not personally liable on the Note or under this Mortgage, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Mortgage or the Note without that Borrower's consent and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

**12. Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by delivering it or by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

**13. Governing Law; Severability.** The state and local laws applicable to this Mortgage shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Mortgage. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Note are declared to be severable. As used herein, "costs", "expenses" and "attorneys fees include all sums to the extent not prohibited by applicable law or limited herein.

**14. Borrower's Copy.** Borrower shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recordation hereof.

**15. Rehabilitation Loan Agreement.** Borrower shall fulfill all of Borrower's obligations under any home rehabilitation, improvement, repair, or other loan agreement which Borrower enters into with Lender. Lender, at Lender's option, may require Borrower to execute and deliver to Lender, in a form acceptable to Lender, an assignment of any rights, claims or defenses which Borrower may have against parties who supply labor, materials or services in connection with improvements made to the Property.

**16. Transfer of the Property or a Beneficial Interest in Borrower.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Mortgage.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Mortgage. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Mortgage without further notice or demand on Borrower.

NON-UNIFORM COVENANT. Borrower and Lender further covenant and agree as follows:

**17. Acceleration; Remedies.** Except as provided in paragraph 16 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Lender prior to acceleration shall give notice to Borrower as provided in paragraph 12 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 10 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, Lender, at Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may invoke the STATUTORY POWER OF SALE and any other remedies permitted by applicable law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph 17, including, but not limited to, reasonable attorneys' fees.

If Lender invokes the STATUTORY POWER OF SALE, Lender shall mail a copy of a notice of sale to Borrower, and to any other person required by applicable law, in the manner provided by applicable law. Lender shall publish the notice of sale and the Property shall be sold in the manner prescribed by applicable law. Lender or Lender's designee may purchase the Property at any sale. The proceeds of the sale shall be applied in the following order: (a) to all reasonable costs and expenses of the sale, including reasonable attorneys' fees and costs of title evidence; (b) to all sums secured by this Mortgage; and (c) the excess, if any, to the person or persons legally entitled thereto.

**18. Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Mortgage due to Borrower's breach, Borrower shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued at any time prior to the earlier to occur of (i) sale of the Property pursuant to the power of sale contained in this Mortgage or (ii) entry of a judgment enforcing this Mortgage if: (a) Borrower pays Lender all sums which would be then due under this Mortgage and the Note had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Mortgage; (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrower contained in this Mortgage, and in enforcing Lender's remedies as provided in paragraph 17 hereof, including, but not limited to, reasonable attorneys fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

**19. Assignment of Rents; Lender in Possession.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 17 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 17 hereof or abandonment of the Property, Lender shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender shall be applied first to payment of the costs of management of the Property and collection of rents, including but not limited to, reasonable attorneys' fees, and then to the sums secured by this Mortgage. Lender shall be liable to account only for those rents actually received.

**20. Release.** Upon payment of all sums secured by this Mortgage, Lender shall discharge this Mortgage without cost to Borrower. Borrower shall pay all costs of recordation, if any.

**REQUEST FOR NOTICE OF DEFAULT  
AND FORECLOSURE UNDER SUPERIOR  
MORTGAGES OR DEEDS OF TRUST**

Borrower and Lender request the holder of any mortgage, deed of trust or other encumbrance with a lien which has priority over this Mortgage to give Notice to Lender, at Lender's address set forth on page one of this Mortgage, of any default under the superior encumbrance and of any sale or other foreclosure action.

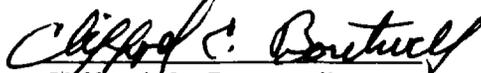
The Note secured by this Mortgage has:

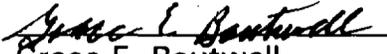
a Principal Sum of \$ 60,000.00  
a Rate of Interest of 9.000 %

a Period of Loan of 120 months  
Periodic Due Dates of 26th day  
of every month

BY SIGNING BELOW, BORROWER accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

WITNESS our hands and seals this 20th day of August, 1993.

  
Clifford C. Boutwell

  
Grace E. Boutwell

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 20th day of August, 1993, before me personally appeared Clifford C. Boutwell and Grace E. Boutwell who acknowledged the foregoing to be his/her/their free act and deed, before me,

  
Notary Public  
My Commission Expires: 11-2-95

**Exhibit A**

Four certain parcels of land together with the buildings thereon situated on Salem Street, in Woburn, Middlesex County, Massachusetts and bounded and described as follows:

PARCEL ONE:

That certain parcel of land situate in Woburn, in the County of Middlesex and said Commonwealth, described as follows:

Westerly by land now or formerly of Charles E. Quinn et al, one hundred thirty-two and 60/100 feet;

Northwesterly by said Quinn et al land, one hundred twenty-one and 05/100 feet; and

Southeasterly by land now or formerly of Daniel J. Quinn, measuring on the upland, two hundred and 37/100 feet.

Said parcel is shown as Lot B1 on said plan (Plan No. 3507<sup>B</sup>).

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 389, Page 197, with Certificate 58179.

The above described land is subject to a Taking by the Middlesex County Commissioners for relocation of Salem Street, as shown on said plan, see Filed Plan 683, Document 33795 and to a Taking by the City of Woburn for construction of sewer, Document 111000.

For Mortgagors' title see Certificate of Title No. 187189 filed in Registration Book 1066, Page 39.

PARCEL TWO:

That certain parcel of land situate in Woburn, in the County of Middlesex and said Commonwealth, described as follows:

Southwesterly by line of land marked City of Woburn (Sewer Location) as shown on plan hereinafter mentioned, five hundred twenty-three and 17/100 feet;

Northwesterly by land now or formerly of John J. Riley Company, about five hundred and eighty-one feet;

Northeasterly by the Abajona River;

Southeasterly by land now or formerly of Daniel J. Quinn, measuring on the upland, about two hundred and fifty-three feet; and

Southeasterly again, one hundred twenty-one and 05/100 feet, and

Northeasterly one hundred thirty-five and 66/100 feet, by Lot B<sup>1</sup> on said plan, ending at a point on Salem Street.

Said parcel is shown as Lot 1 on said plan (Plan No. 3507<sup>C</sup>).

All of said boundaries, except the river line, are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 612, Page 138, with Certificate 96488.

The above described land is subject to such flowage rights as may legally exist.

For Mortgagors' title see Certificate of Title No. 187190 filed with the Middlesex South District Registry of Deeds Land Registration Office in Registration Book 1066, Page 40.

PARCEL THREE:

That certain parcel of land situate in Woburn, in the County of Middlesex and said Commonwealth, described as follows:

Southeasterly by the Northwesterly line of Salem Street, two hundred twenty-one and 99/100 feet;

Southwesterly by land now or formerly of Hugh A. Quinn et al, four hundred forty-eight and 89/100 feet; and

Northwesterly eight and 62/100 feet; and

Northeasterly five hundred and 82/100 feet, by line of land marked City of Woburn (Sewer Location) as shown on plan hereinafter mentioned.

Said parcel is shown as Lot 2 on said plan (Plan No. 3507<sup>C</sup>).

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 612, Page 138, with Certificate 96488.

Together with the fee and soil of so much of Salem Street shown on said plan as was included by implication of law in bounding by Salem Street in its former location prior to its relocation by the Middlesex County Commissioners under Document 33795.

The above described land is subject to such flowage rights as may legally exist, see Order of Court, Document 338765.

For Mortgagors' title see Certificate of Title No. 187191 filed with the Middlesex South Land Registration Office in Registration Book 1066, Page 41.

PARCEL FOUR:

The land in said Woburn with the buildings thereon beginning at a corner of the North side of Salem Street at land of Charles E. Quinn et al, the line runs N 5° 55' W to a stake a distance of three and 06/100 (3.06) feet, thence turning the line runs N29° 36' 00" E two hundred and 36/100 (200.36) feet to a stone bound, thence in the same course by land of aforesaid Quinn a distance of two hundred sixty-eight and 19/100 (268.19) feet to the thread of the Aberjona River, thence following the thread of the Aberjona River in a general Southerly direction, three hundred thirty (330.00) feet more or less to the North side of a bridge on Salem Street, said point being on the North side of Salem Street, thence the line runs S 49° 00' W a distance sixty-four and 70/100 (64.70) feet to a stone bound, thence on a curve bearing to the right with a radius 350.05' a distance of one hundred thirty-eight and 19/100 (138.19) feet to a stone bound, thence the line runs S 71° 36" W a distance of hundred fifty-six and 95/100 (156.95) feet to a stone bound, thence on a curve bearing to the right with a radius of 755.61' a distance of twenty-seven and 30/100 (27.30) feet to a stake to the point of beginning.

Containing 62,500 square feet more or less. The last four courses described constitute the layout of the North side of Salem Street as laid out by the County Commission in 1920.

Being the same premises conveyed to the Mortgagors by deed of Clifford C. Boutwell et ux dated March 20, 1990 and recorded with the Middlesex South District Registry of Deeds at Book 20445, Page 72.