

COMMERCIAL CRIME COVERAGE FORM

Words and phrases in quotation marks have special meaning as defined in **F. DEFINITIONS**.

Whenever the following words are used in this Coverage Form, they will be specifically defined as follows:

You and **your** means the **Named Insured**.

We, us and **our** means **The Wawanesa Mutual Insurance Company**.

A. COVERAGES

1. Employee Dishonesty

We will pay for loss of or damage to "money", "securities" and "property other than money and securities" resulting from "employee dishonesty", including such loss caused by an "employee" while temporarily outside the territory specified in Paragraph 11. **Territory** in **E. Additional Conditions** for a period not exceeding 90 days.

2. Money, Securities and Other Property

(a) Inside Crime

We will pay for:

- (i) Loss of "money" and "securities" by their actual destruction, disappearance or unlawful removal from within the "premises" or within any "banking premises";
- (ii) Loss of or damage to:
 - (1) "Property other than money and securities" by actual or attempted "safe burglary" or "robbery" within the "premises"; or
 - (2) A locked cash drawer, cash box, cash register, vault or safe by actual or attempted unlawful entry into such container within the "premises";
- (iii) Loss to a locked cash drawer, cash box, cash register, vault or safe by unlawful taking from inside the "premises";
- (iv) Damage to the "premises" or its exterior resulting from "safe burglary", "robbery" or unlawful taking as referred to in Paragraph (iii) above, or by or following actual or attempted unlawful entry into the "premises" if you are the owner of the "premises" or are liable for damage to it.

(b) Outside Crime

We will pay for:

- (i) Loss of "money" and "securities" by their actual destruction, disappearance or unlawful removal from outside the "premises" while being conveyed by a "custodian" or while within the living quarters of any "custodian";
- (ii) Loss of or damage to "property other than money and securities" by actual or attempted "robbery" outside the "premises" while being conveyed by a "custodian" or by theft while within the living quarters of any "custodian".

3. Money Orders and Counterfeit Paper Currency

We will pay for loss resulting from your acceptance in good faith, in exchange for merchandise, "money" or services:

- (a) Any money order that is issued or claimed to be issued by a post office or express company, if such money order is not paid upon presentation; or
- (b) Counterfeit Canadian or U.S. paper currency that is acquired in the regular course of your business.

4. Forgery or Alteration

- (a) We will pay for loss resulting from forgery or alteration of any cheque, draft, promissory note, bill of exchange or similar written promise, order or direction to pay a sum certain in "money", that is:

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- (i) Made or drawn by or drawn upon you; or
 - (ii) Made or drawn by one acting as your agent;
- or that are purported to have been so made or drawn.

- (b) If you are sued for refusing to pay on any instrument described in Paragraph (a) above on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur and pay in that defence. The amount that we will pay is in addition to the Amount of Insurance applicable to this Forgery or Alteration coverage.

5. Credit Card Forgery

- (a) We will pay for loss resulting from forgery or alteration of any credit, debit or charge card issued to you or any of your "employees", but only if you or your "employees" have fully complied with all the terms and conditions under which such card was issued.
- (b) If you are sued for refusing to pay on any instrument described in Paragraph (a) above on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur and pay in that defence. The amount that we will pay is in addition to the Amount of Insurance applicable to this Credit Card Forgery coverage.

6. Computer Fraud

We will pay for loss or damage to "money", "securities" and "property other than money and securities" resulting directly from the use of any computer or electronic device to fraudulently cause a transfer of such property from inside the "premises" or "banking premises" to a:

- (a) Person (other than a "custodian") outside those "premises"; or
- (b) Place outside those "premises".

7. Funds Transfer Fraud

We will pay for loss of "money" or "securities" resulting directly from a "fraudulent instruction" directing a financial institution to transfer, pay or deliver "money" or "securities" from your "transfer account".

8. Armoured Motor Vehicle

We will pay for loss of or damage to "money", "securities" and "property other than money and securities" while:

- (a) Outside the "premises"; and
- (b) In the custody of an armoured motor vehicle company;

resulting from their actual destruction, disappearance or unlawful removal.

B. EXCLUSIONS

We will not pay for:

1. Accounting or Arithmetical Errors or Omissions

Loss resulting from accounting or arithmetical errors or omissions. This exclusion only applies to Coverage **A.2. Money, Securities and Other Property**.

2. Acts Committed by You or Your Partners

Loss resulting from any dishonest or criminal act committed by you or any of your partners whether acting alone or in collusion with other persons.

This exclusion does not apply to a claim by an "innocent co-insured" for loss of or damage to property in which they have a legal interest, but only to the extent of their proportional interest in that property.

3. Acts Committed by Employees and Others

Loss resulting from any dishonest or criminal act committed by any of your "employees", officers, directors or trustees whether acting alone or in collusion with other persons.

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This exclusion does not apply:

- (a) To a claim by an "innocent co-insured" for loss of or damage to property in which they have a legal interest, but only to the extent of their proportional interest in that property; or
- (b) With respect to any coverage provided under Coverage **A.1. Employee Dishonesty**.

4. Armoured Motor Vehicle

Loss to "money", "securities" or "property other than money and securities" while such property is in the custody of an armoured motor vehicle company. However, we will pay for loss in excess of any amount you collect from the armoured motor vehicle company or its insurers. This exclusion only applies to Coverage **A.8. Armoured Motor Vehicle**.

5. Communicable Disease

- (a) Loss or damage caused directly or indirectly, in whole or in part, by a "communicable disease".
- (b) The cost or expense for any testing, monitoring, evaluating, assessing or clean-up of "communicable disease".

This exclusion applies whether or not there are one or more other causes or events (whether covered or not) that contribute concurrently or in any sequence to the occasioning of the loss or damage.

6. Employee Terminated Under Prior Insurance

Loss caused by any "employee" of yours, or any predecessor of yours, for whom similar prior insurance has been terminated and not reinstated since the last such termination. This exclusion only applies to Coverage **A.1. Employee Dishonesty**.

7. Exchanges or Purchases

Loss resulting from the giving or surrendering of "money", "securities" or "property other than money and securities" in any exchange or purchase. This exclusion only applies to Coverages **A.2. Money, Securities and Other Property** and **A.6. Computer Fraud**.

8. Fire

Loss or damage resulting from fire. This exclusion does not apply to "money", "securities" or loss from damage to a vault or safe. This exclusion only applies to Coverage **A.2. Money, Securities and Other Property**.

9. Governmental Action

Loss resulting from seizure or destruction of property by order of governmental authority.

10. Indirect Loss

Loss that is an indirect result of any act or "occurrence" covered by this insurance including, but not limited to, loss resulting from:

- (a) Your inability to realize income that you would have realized had there been no loss of, or loss from damage to, "money", "securities" or "property other than money and securities";
- (b) Payment of damages of any type for which you are legally liable. But, we will pay compensatory damages arising directly from a loss covered under this insurance.
- (c) Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this insurance.

11. Inventory Shortages

Loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:

- (a) An inventory computation; or
- (b) A profit and loss computation.

This exclusion only applies to Coverages **A.1. Employee Dishonesty** and **A.6. Computer Fraud**.

12. Legal Expenses

"Wawanesa Insurance" is **The Wawanesa Mutual Insurance Company** and is the licensed insurer of this policy.



Expenses related to any legal action. But this exclusion does not apply with respect to any coverage provided under Coverages **A.4. Forgery or Alteration** and **A.5. Credit Card Forgery**.

13. Manuscripts

Loss of or damage to manuscripts, records or accounts except for their blank value.

14. Money Operated Devices

Loss of "money" contained in any coin operated amusement device or vending machine, unless the amount of "money" deposited in such device or machine is recorded by a continuous recording instrument therein. This exclusion only applies to Coverage **A.2. Money, Securities and Other Property**.

15. Nuclear Incident

Loss resulting from any nuclear incident (as defined in the *Nuclear Liability And Compensation Act* (Canada) or any other nuclear liability act, law or statute, or any amending law), nuclear explosion or contamination by radioactive material.

16. Terrorism

Loss resulting from "terrorism" or by any activity or decision of a government agency or other entity to prevent, respond to or terminate "terrorism".

17. Transfer or Surrender of Property

- (a) Loss or damage to "money", "securities" or "property other than money and securities" after it has been transferred or surrendered to a person or place outside the "premises" or "banking premises":
 - (i) On the basis of unauthorized instructions;
 - (ii) As a result of a threat to do bodily harm to any person; or
 - (iii) As a result of a threat to do damage to the "premises", "banking premises" or to property you hold in any capacity.
- (b) This exclusion only applies to Coverage **A.2. Money, Securities and Other Property**. But this exclusion does not apply with respect to any coverage provided under Paragraph (b) **Outside Crime** of Coverage **A.2. Money, Securities and Other Property** for loss to "money", "securities" or "property other than money and securities" while being conveyed by a "custodian" if you had no knowledge of any threat as described in Paragraphs (a)(ii) and (iii) above at the time the conveyance was initiated.

18. War

Loss resulting from war, invasion, act of a foreign enemy, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection or military power.

C. AMOUNTS OF INSURANCE

The most we will pay for loss or damage in any one "occurrence" is the applicable Amount of Insurance shown in the Declarations or in any schedule or endorsement that is part of this Coverage Form.

D. DEDUCTIBLE

We are liable for the amount by which the loss or damage in any one "occurrence" exceeds the amount of the deductible shown in the Declarations.

E. ADDITIONAL CONDITIONS

The following conditions apply in addition to the Common Policy Conditions found in the Common Policy and Property Conditions:

1. Consolidation – Merger

- (a) If through consolidation or merger with, or purchase of assets of, some other entity:
 - (i) Any additional persons become "employees"; or
 - (ii) You acquire the use and control of any additional "premises";



any insurance afforded under this policy for "employees" or "premises" also applies to those additional "employees" and "premises". You will report such "employees" or "premises" within 30 days of the date of consolidation, merger, purchase or acquisition, and will pay any additional premium due.

- (b) If you do not report such consolidation, merger, purchase or acquisition, coverage will cease automatically when any of the following first occurs:
 - (i) 30 days after the effective date of such consolidation, merger, purchase or acquisition;
 - (ii) The last day of the policy period; or
 - (iii) The date this policy is terminated.

2. Discovery Period for Loss

We will pay for covered loss that you sustain through acts committed or events occurring at any time prior to or during the policy period, if the loss is discovered by you during the policy period or within one year of the ending date of the policy period.

However, if this policy is terminated, we will pay for covered loss that you sustain through acts committed or events occurring at any time prior to the:

- (a) Date this policy came into effect; and
- (b) Effective date of this policy's termination;

if the loss is discovered by you within one year of the date of that termination.

3. Electronic and Mechanical Signatures

With respect to Coverage **A.4. Forgery or Alteration**, we will treat electronically or mechanically reproduced signatures the same as handwritten signatures.

4. Duties in the Event of Loss

After you discover a loss that may result in covered loss or damage, you must:

- (a) Notify us as soon as possible;
- (b) Submit to an examination under oath at our request and give us a signed statement of your answers;
- (c) Give us a detailed, sworn proof of loss within 120 days;
- (d) Cooperate with us in the investigation and settlement of any claim;
- (e) Give immediate notice to the police of any loss or damage due to violation of law; and
- (f) If covered loss or damage is to "securities", take all reasonable measures to prevent their negotiation, sale or conversion.

5. Joint Insured

- (a) If any Named Insured, or partner or officer of that Named Insured has knowledge of any information relevant to this insurance, that knowledge is considered knowledge of every Named Insured.
- (b) An "employee" of any Named Insured is considered to be an "employee" of every Named Insured.
- (c) If this insurance or any of its coverages is terminated as to any Named Insured, loss sustained by that Named Insured is covered only if discovered no later than one year from the date of that termination.

6. Legal Action Against Us

You may not bring any legal action against us:

- (a) Unless you have fully complied with all the terms of this insurance;
- (b) Until 90 days after you have filed proof of loss with us; and
- (c) Unless brought within 2 years from the date you discover the loss.



Every action or proceeding against an insurer for the recovery of insurance money payable under contract is absolutely barred unless commenced within the time set out in the Insurance Act or other applicable legislation.

7. Loss Under Two or More Coverages

If two or more coverages under this insurance apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

8. Non-cumulation of Amount of Insurance

Regardless of the number of years this insurance remains in force or the number of premiums paid, no Amount of Insurance cumulates from year to year or policy period to policy period.

9. Other Insurance

If there is other insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Amount of Insurance.

10. Ownership of Property; Interest Covered

The property covered under this insurance is limited to property:

- (a) That you own, lease or hold for others; or
- (b) For which you are legally liable.

However, this insurance is for your benefit only. It provides no benefits to any other person or organization.

11. Territory

We will cover acts committed or events occurring in Canada and the United States of America, including its territories and possessions.

However, with respect to Coverages **A.4. Forgery or Alteration** and **A.6. Computer Fraud**, we will cover loss you sustain anywhere in the world.

12. Records

You must keep records of all property covered by this insurance so that we can verify the amount of any loss.

13. Recoveries

- (a) Any recoveries, less the cost of obtaining them, made after settlement of loss covered by this policy will be distributed as follows:
 - (i) To you, until you are reimbursed for any loss that you sustained that exceeds the Amount of Insurance and the deductible amount, if any;
 - (ii) Then to us, until we are reimbursed for the settlement made;
 - (iii) Then to you, until you are reimbursed for that part of the loss equal to the deductible amount, if any.
- (b) Recoveries do not include any recovery:
 - (i) From insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or
 - (ii) Of original "securities" after duplicates of them have been issued.
- (c) You are entitled to the recovered property upon reimbursing us for the amount of indemnity paid to you for such property. Whoever recovers such property will immediately notify the other party in writing.

14. Termination as to any Employee

This insurance is terminated as to any "employee":

- (a) Immediately upon discovery by:

"Wawanesa Insurance" is **The Wawanesa Mutual Insurance Company** and is the licensed insurer of this policy.

- (i) You; or
 - (ii) Any of your partners, officers or directors not in collusion with the "employee";
of any dishonest act committed by that "employee" whether before or after becoming employed by you.
- (b) On the date specified in a notice mailed to you. That date will be at least 30 days after the date of mailing.

The mailing of notice to you at the last mailing address known to us will be sufficient proof of notice. Delivery of notice is the same as mailing.

15. Transfer of Your Rights of Recovery Against Others to Us

You must transfer to us all your rights of recovery against any person or organization for any loss you sustained and for which we have paid or settled. You must also do everything necessary to secure those rights and do nothing after loss to impair them.

16. Valuation – Settlement

(a) Subject to **C. AMOUNTS OF INSURANCE**, we will pay for:

- (i) Loss of "money" but only up to and including its face value. We may, at our option, pay for loss of "money" issued by any country other than Canada:
 - (1) At face value in the "money" issued by that country; or
 - (2) In the Canadian dollar equivalent determined by the rate of exchange on the day the loss was discovered.
- (ii) Loss of "securities" but only up to and including their value at the close of business on the day the loss was discovered. We may, at our option, pay the:
 - (1) Value of such "securities" or replace them in kind, in which event you must assign to us all your rights, title and interest in and to those "securities"; or
 - (2) Cost of any Lost Securities Bond required in connection with issuing duplicates of the "securities". However, we will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:
 - (i) Value of the "securities" at the close of business on the day the loss was discovered; or
 - (ii) Amount of Insurance.
- (iii) Loss of, or loss from damage to "property other than money and securities" or loss from damage to the "premises" or its exterior, for not more than the:
 - (1) Actual cash value of the property on the day the loss was discovered;
 - (2) Cost of repairing the property or "premises";
 - (3) Cost of replacing the property with property like kind and quality; or
 - (4) Amount of Insurance.

We may, at our option, pay the actual cash value of the property or repair or replace it.

If we cannot agree with you upon the actual cash value of the cost of repair or replacement, the value of cost will be determined by arbitration.

- (b) Any property that we pay for or replace becomes our property.

F. DEFINITIONS

- 1. **"Banking Premises"** means the interior of that portion of any building occupied by a banking institution or similar safe depository, including any night depository provided for use by its customers.
- 2. **"Custodian"** means you, any of your partners, or any "employee" authorized by you to have custody of property, excluding any person while acting as a "guard", janitor, porter or "watchperson".

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3. **"Communicable Disease"**

(a) Means any:

- (i) Virus;
- (ii) Bacterium; or
- (iii) Other microorganism;

that induces or is capable of inducing physical distress, illness or disease.

(b) Includes any fear or threat (whether actual or perceived) of such virus, bacterium or other microorganism.

4. **"Employee"** means:

(a) Any natural person:

- (i) While in your service (and for 30 days after termination of service);
- (ii) Who you compensate directly by salary, wages or commissions; and
- (iii) Who you have the right to direct and control while performing services for you; or

(b) Any natural person employed by an employment contractor while such person is subject to your direction and control and performing services for you, excluding, however, any such person while having care and custody of property outside the "premises".

But "employee" does not mean any:

- (1) Agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or
- (2) Director or trustee except while performing acts coming within the scope of the usual duties of an "employee".

5. **"Employee Dishonesty"** means only dishonest acts committed by an "employee", whether identified or not, acting alone or in collusion with other persons (except you or your partner) with the manifest intent to:

- (a) Cause you to sustain loss; and
- (b) Obtain financial benefit (other than employee benefits earned in the normal course of employment, including salaries, commissions, fees, bonuses, promotions, awards, profit sharing or pensions) for:
 - (i) The "employee"; or
 - (ii) Any person or organization intended by the "employee" to receive that benefit.

6. **"Fraudulent Instruction"** means:

- (a) An electronic, telegraphic, cable, teletype, telefacsimile or telephone instruction that purports to have been transmitted by you, but which was in fact fraudulently transmitted by someone else without your knowledge or consent;
- (b) A written instruction issued by you that was forged or altered by someone other than you without your knowledge or consent; or
- (c) An electronic, telegraphic, cable, teletype, telefacsimile, telephone or written instruction initially received by you that purports to have been issued by your "employee" but which was in fact fraudulently transmitted by someone else without your or the "employee's" knowledge or consent.

7. **"Guard"** means any able-bodied person who accompanies a "custodian" at your direction, but who is not a driver of a public conveyance.

8. **"Innocent Co-insured"** means any Named Insured who is a natural person and who has not abetted, colluded or consented to any dishonest or criminal act which resulted in loss or damage.

9. **"Money"** means currency and coins in current use and having a face value.

10. **"Occurrence"** means:

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- (a) With respect to Coverage **A.1. Employee Dishonesty**, all loss caused by, or involving, one or more "employees" whether the result of a single act or series of acts.
 - (b) With respect to Coverage **A.4. Forgery or Alteration**, all loss caused by any one person or in which that person is involved, whether the loss involves one or more instruments.
 - (c) With respect to all other Coverages:
 - (i) An act or series of related acts involving one or more persons; or
 - (ii) An act or event, or series of related acts or events not involving any person.
11. **"Premises"** means the interior of that portion of any building you occupy in conducting your business.
12. **"Property Other Than Money and Securities"** means any tangible property usual to your business other than:
- (a) "Money";
 - (b) "Securities";
 - (c) Motor vehicles, trailers or semi-trailers; or
 - (d) Equipment or accessories attached to motor vehicles, trailers or semi-trailers.
13. **"Robbery"** means the unlawful taking of property from a "custodian" by a person or persons who have:
- (a) Caused or threatened to cause bodily harm to the "custodian"; or
 - (b) Committed an overt unlawful act that was witnessed by the "custodian".
14. **"Safe Burglary"** means the unlawful taking of property from a vault or safe:
- (a) By a person who has made unlawful entry into such vault or safe;
 - (b) All doors of which are closed and locked by a combination lock; and
 - (c) As evidenced by visible marks of forced entry on the exterior of such vault or safe.
15. **"Securities"** means all negotiable and non-negotiable instruments or contracts representing "money" or other property, and includes revenue and other stamps in current use, tokens and tickets, but does not include "money".
16. **"Terrorism"** means an ideologically motivated unlawful act or acts, including but not limited to the use of violence or force or threat of violence or force, committed by or on behalf of any group, organization or government for the purpose of influencing any government or instilling fear in the public or a section of the public.
17. **"Transfer Account"** means an account maintained by you at a financial institution from which you can initiate the transfer, payment or delivery of "money" or "securities":
- (a) By means of electronic, telegraphic, cable, teletype, telefacsimile or telephone instructions communicated directly through an electronic funds transfer system; or
 - (b) By means of written instructions establishing the conditions under which such transfers are to be initiated by such financial institution through an electronic funds transfer system.
18. **"Watchperson"** means any person employed exclusively by you to have care and custody of property inside the "premises" while the "premises" are closed for business, and who has no other duties.