

IN THE CIRCUIT COURT OF THE 11<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

COMPLEX BUSINESS LITIGATION

CASE NO.:

FONTAINEBLEAU FLORIDA HOTEL,  
LLC; AMNESIA INTERNATIONAL,  
LLC; BEVERLY STREET HOTEL 1B,  
LLC; TB BEVERLY STREET MANAGER  
LLC; TB ISLE RESORT LP d/b/a JW  
MARRIOTT MIAMI TURNBERRY  
RESORT & SPA; FONTAINEBLEAU  
DEVELOPMENT LLC; NASHVILLE  
DOWNTOWN HOTEL LLC; TURNBERRY  
AIRPORT HOLDINGS, LLC; SOUTH  
FLORIDA AVIATION INVESTMENTS,  
INC.; and 831 FEDERAL HIGHWAY  
ACQUISITION LLC d/b/a THE BIG EASY,

*Plaintiffs,*

v.

WESTCHESTER SURPLUS LINES  
INSURANCE COMPANY; GUIDEONE  
NATIONAL INSURANCE COMPANY;  
STARR SURPLUS LINES INSURANCE  
COMPANY; AXIS SURPLUS INSURANCE  
COMPANY; CERTAIN UNDERWRITERS  
AT LLOYD'S, LONDON SUBSCRIBING TO  
POLICY NO. W275E6190101; IRONSHORE  
SPECIALTY INSURANCE COMPANY;  
LEXINGTON INSURANCE COMPANY;  
CERTAIN UNDERWRITERS AT LLOYD'S,  
LONDON SUBSCRIBING TO POLICY NO.  
(UMR) B090119363U19; ACE AMERICAN  
INSURANCE COMPANY; INTERSTATE  
FIRE & CASUALTY COMPANY; ALLIANZ  
GLOBAL RISKS US INSURANCE COMPANY;  
INDIAN HARBOR INSURANCE COMPANY;  
LIBERTY SPECIALTY MARKETS BERMUDA  
LTD.; COLONY INSURANCE COMPANY;  
PICC PROPERTY AND CASUALTY

COMPANY LIMITED; ENDURANCE  
AMERICAN SPECIALTY INSURANCE  
COMPANY; HALLMARK SPECIALTY  
INSURANCE COMPANY; HAMILTON  
INSURANCE SERVICES (BERMUDA) LTD.;  
GENERAL SECURITY INDEMNITY  
COMPANY OF ARIZONA; PRINCETON  
EXCESS AND SURPLUS LINES INSURANCE  
COMPANY; CRUM & FORSTER SPECIALTY  
INSURANCE COMPANY; WESTERN  
WORLD INSURANCE COMPANY; ARGO RE  
LTD.; WESTPORT INSURANCE  
CORPORATION; CHUBB BERMUDA  
INSURANCE LTD.; SCOTTSDALE  
INDEMNITY COMPANY; CERTAIN  
UNDERWRITERS AT LLOYD’S, LONDON  
SUBSCRIBING TO POLICY NO.  
BNPD19AA613A; EVEREST INDEMNITY  
INSURANCE COMPANY; QBE SPECIALTY  
INSURANCE COMPANY; XL BERMUDA LTD;  
MAXUM INDEMNITY COMPANY; ALLIANZ  
UNDERWRITERS INSURANCE COMPANY;  
CERTAIN UNDERWRITERS AT LLOYD’S,  
LONDON SUBSCRIBING TO POLICY NOS.  
AQS- 190557 and AQS- 190558; HDI GLOBAL  
SPECIALTY SE; and SAFETY SPECIALTY  
INSURANCE COMPANY,

*Defendants.*

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## COMPLAINT

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Plaintiffs (“Insureds”) sue Defendants as follows:

### **NATURE OF ACTION**

1. This is an action for declaratory judgment. The Insureds seek determinations that their losses incurred in connection with the Novel Coronavirus Disease 2019 (“COVID-19”) pandemic are covered under insurance policies issued by Defendants.

2. The issue is whether the Insureds suffered “covered losses,” i.e., losses that satisfy certain insuring agreements. Defendants have raised various coverage limitations and exclusions

in the pending insurance claims, but none are relevant to the relief sought in this lawsuit.

### **PARTIES, JURISDICTION, AND VENUE**

3. This Court has jurisdiction under § 86.011 FLA. STAT. because the Insureds seek declarations concerning the rights, status, and other equitable or legal relations under contracts of insurance.

4. Pursuant to Administrative Order 17-11 and the Complex Business Litigation Rules of this Court, this action should be heard in the Complex Business Litigation Section because the amount in controversy exceeds \$750,000.00 (excluding interest, costs, and attorney's fees), and the case may result in: (i) numerous pre-trial motions raising difficult or novel legal issues, or legal issues inextricably intertwined and time consuming; (ii) management of large numbers of separately represented parties; and (iii) management of large amounts of documents.

5. The Insureds are owed millions of dollars under the subject insurance policies.<sup>1</sup>

6. Venue is proper because the subject insurance policies were issued and delivered in Miami-Dade County, Florida, some of the events giving rise to this lawsuit occurred in Miami-Dade County, Florida, and some of the property implicated in this action is located in Miami-Dade County, Florida.

#### ***The Insureds***

7. Fontainebleau Florida Hotel, LLC is a Delaware limited liability company that conducts business in Florida.

8. Amnesia International, LLC is a Florida limited liability company that conducts business in Florida.

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<sup>1</sup> The Insureds submit this figure for jurisdictional purposes, only. This is an action for declaratory relief, not monetary damages.

9. Beverly Street Hotel 1B, LLC is a Delaware limited liability company that conducts business in Massachusetts. One member of Beverly Street Hotel 1B, LLC is a Massachusetts limited liability company whose members permanently reside in Connecticut, Massachusetts, and New York.

10. TB Beverly Street Manager LLC is a Delaware limited liability company that conducts business in Massachusetts.

11. TB Isle Resort LP d/b/a JW Marriott Miami Turnberry Resort & Spa is a Delaware limited partnership that conducts business in Florida. One member of TB Isle Resort LP d/b/a JW Marriott Miami Turnberry Resort & Spa is a Delaware corporation.

12. Fontainebleau Development LLC is a Florida limited liability company that conducts business in Florida.

13. Nashville Downtown Hotel LLC is a Delaware limited liability company that conducts business in Tennessee.

14. Turnberry Airport Holdings, LLC is a Florida limited liability company that conducts business in Florida.

15. South Florida Aviation Investments, Inc. is a Florida corporation that conducts business in Florida.

16. 831 Federal Highway Acquisition LLC d/b/a The Big Easy is a Delaware limited liability company that conducts business in Florida.

### ***Defendants***

17. Defendants are insurance companies who agreed to cover the Insureds under various commercial policies. At all material times, Defendants engaged in the business of selling insurance in Florida.

18. Upon information and belief, Defendants are foreign insurers who collectively reside in the following states: Arizona, Delaware, Connecticut, Georgia, Illinois, Iowa, Massachusetts, Missouri, New York, New Jersey, North Dakota, Oklahoma, Ohio, Pennsylvania, Texas, Virginia, and Wisconsin. Some Defendants reside offshore, including in Bermuda, China, and the United Kingdom.

19. Based on their respective domiciles, the parties are not completely diverse.

### **GENERAL ALLEGATIONS**

#### ***The Insured Properties***

20. The Insureds own and operate several of South Florida's iconic vacation and entertainment destinations, including Fontainebleau Miami Beach Hotel ("Fontainebleau"), Story Nightclub ("Story"), LIV Nightclub ("LIV"), JW Marriott Miami Turnberry Resort & Spa ("JW Marriott"), and The Big Easy Casino ("Big Easy").<sup>2</sup> The Insureds operate additional hotels in Boston, Massachusetts ("Courtyard Marriott Boston") and Nashville, Tennessee ("Hilton Nashville Downtown"). The Insureds also operate private air hangars at Miami-Opa Locka Executive Airport ("Fontainebleau Aviation"). The foregoing comprise the "Insured Properties".

21. The Insured Properties are covered under policies issued by Defendants.

22. The Fontainebleau Miami Beach Hotel, Story Nightclub, LIV Nightclub, the JW Marriott Miami Turnberry Resort & Spa, and the Courtyard Marriott Boston are insured under the Fontainebleau Manuscript (defined below) and the Pollution Policy (defined below).

23. The Hilton Nashville Downtown is insured under the Turnberry Manuscript (defined below) and the Pollution Policy.

24. Fontainebleau Aviation is insured under the Turnberry Manuscript.

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<sup>2</sup> Each of these businesses is located in Miami-Dade County, Florida.

25. The Big Easy Casino is insured under the Big Easy Manuscript (defined below).

***The Fontainebleau Commercial Property Insurance Manuscript***

26. The following Defendants<sup>3</sup> issued a manuscript commercial property insurance program (comprised of several individual policies) to Fontainebleau Florida Hotel, LLC,<sup>4</sup> effective June 1, 2019 through June 1, 2020 (collectively, “Fontainebleau Manuscript”):

<b>Defendant</b>	<b>Policy No.</b>
Westchester Surplus Lines Insurance Company	D42273223 001
GuideOne National Insurance Company	CTW003164
Starr Surplus Lines Insurance Company	SLSTPTY11188819
AXIS Surplus Insurance Company	EAF648661-19
Beazley Syndicates 2623 and 623	W2754E190191
Certain Underwriters, Brit Lead	(UMR) B090119363U19
Ironshore Specialty Insurance Company	003623501
Lexington Insurance Company	025032291

An exemplar policy from the Fontainebleau Manuscript, Policy No. D42273223 001, is attached hereto as Exhibit A.

27. Except for coverage limitations and exclusions, the Fontainebleau Manuscript Insurers are bound by the same terms and conditions regarding the losses identified herein.

28. The Fontainebleau Manuscript grants Business Interruption coverage (and various additional coverages) on an all-risk basis:

**8. PERILS INSURED AGAINST**

This policy insures against all risk of direct physical loss of or damage to property described herein including under general average, salvage and all other charges on shipments covered hereunder, except as hereinafter excluded.

Ex. A.

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<sup>3</sup> Collectively, the “Fontainebleau Manuscript Insurers”.

<sup>4</sup> Amnesia International, LLC, Beverly Street Hotel 1B, LLC, TB Beverly Street Manager LLC, TB Isle Resort LP d/b/a JW Marriott Miami Turnberry Resort & Spa, and Fontainebleau Development LLC are also insured under the Fontainebleau Manuscript.

29. “[A]ll risk of direct physical loss of or damage to” is not further defined.

30. The Fontainebleau Manuscript covers business income lost during a necessary interruption of business, as well as extra expenses, lost rental value, lost royalties, and soft costs:

## **6. COVERAGE**

Except as hereinafter excluded, this policy covers the following while at or within 2,500 feet of a location on the schedule of locations on file with the company and including newly acquired locations and miscellaneous unnamed locations or while in transit within this policy’s territory:

\* \* \*

### **B. Business Interruption**

- (1) Loss of business income resulting from necessary interruption of business conducted by the Insured, whether total or partial, and caused by loss, damage, or destruction covered herein during the term of this policy to real and personal property as described in Clause 6.A.

\* \* \*

### **C. Extra Expense**

- (1) Extra Expense incurred by the Insured resulting from direct physical loss, damage, or destruction covered hereunder during the term of this policy to real or personal property as described in Clause 6.A.

\* \* \*

### **D. Rental Value**

- (1) Rental Value loss sustained by the Insured resulting from direct physical loss, damage, or destruction covered herein during the term of this policy to real and personal property described in Clause 6.A. but not exceeding the reduction in rental less charges and expenses which do not necessarily continue.

\* \* \*

**E. Royalties**

- (1) Loss of income to the Insured under royalty, licensing fees, or commission agreements between the Insured and another party which is not realizable due to loss, damage, or destruction by any of the perils covered herein during the term of this policy to property of the other party.

\* \* \*

**F. Soft Costs**

- (1) Soft costs, as hereinafter described,<sup>5</sup> incurred by the Insured and caused by loss, damage, or destruction covered herein during the term of this policy to real or personal property described in Clause 6.A.

*Id.*

31. The terms “loss, damage, or destruction” and “direct physical loss, damage, or destruction” are not further defined. *See generally id.*

32. The Fontainebleau Manuscript also has coverage extensions for Contingent Time Element, Leader Property, Interruption by Civil or Military Authority, and Ingress/Egress:

**6. COVERAGE**

\* \* \*

**G. Time Element Extensions**

- (1) This policy, subject to all provisions and without increasing the limits of this policy, is extended to cover the actual loss sustained by the Insured resulting from the necessary interruption of the business conducted by the insured, whether partial or total, caused by loss, damage, or destruction covered herein during the term of this policy to:

\* \* \*

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<sup>5</sup> “Soft costs” means “costs over and above the costs which normally would have been incurred by the Insured” and includes interim loan fees and one-time charges, advertising and promotional expenses, consulting and legal fees, and project administration expenses.



- (b) Contingent Time Element: property that wholly or partially prevents any direct supplier of goods and/or services to the Insured from rendering their goods and/or services, or property that wholly or partially prevents any direct receiver of goods and/or services from the Insured from accepting the Insured's goods and /or services, such supplier or receiver to be located anywhere in the world;

\* \* \*

- (e) Leader Property: This policy, subject to all provisions and without increasing the limits of this policy, also insures against the Actual Loss Sustained, as insured by this policy resulting from physical damage to or destruction by causes of loss insured against, to:

Leader Property: property not owned or operated by the Insured, located within 25 miles of an Insured Location, which attracts business to the Insured.

\* \* \*

- (2) Interruption by Civil or Military Authority: This policy is extended to cover the actual loss sustained during the period of time when access to real or personal property is impaired by order or action of civil or military authority issued as a direct result of physical damage to property of the type insured against under this policy to property within 5 miles of any location on schedule on file with the company . . . .
- (3) Ingress/Egress: This Policy is extended to cover the actual loss sustained during the period of time when access to or egress from real or personal property is impaired as a direct result of physical damage to property of the type insured against under this policy to property within 5 miles of any location on schedule on file with the company . . . .

*Id.*

33. The terms "loss, damage, or destruction," "direct physical loss, damage, or destruction," "physical damage," and "destruction" are not further defined. *See generally id.*

### *The Turnberry Commercial Property Insurance Manuscript*

34. The Defendants listed in Exhibit B (“Turnberry Manuscript Insurers”) issued a manuscript commercial property insurance program to Shopping Center Management Group d/b/a Turnberry Associates,<sup>6</sup> effective June 1, 2019 through June 1, 2020 (collectively, “Turnberry Manuscript”). An exemplar policy from the Turnberry Manuscript, Policy No. 061818930, is attached hereto as Exhibit C.

35. Except for certain limitations and exclusions, the Turnberry Manuscript’s coverages, terms, and conditions are substantially the same as the Fontainebleau Manuscript’s.

### *The Fontainebleau Pollution Policy*

36. Allianz Underwriters Insurance Company (“Allianz”) issued Environmental Protect Premises Policy No. U5L000150180 to Shopping Center Management d/b/a Turnberry Associates, effective April 9, 2018 through April 9, 2021 (“Pollution Policy”).<sup>7</sup> A copy of the Pollution Policy is attached as Exhibit D.

37. The Pollution Policy covers clean-up costs, emergency response costs, business interruption expenses, and extra expenses caused by a “pollution condition.”

## **Section 1 – Insuring Agreements**

### **A. Own Site Cleanup Costs**

The Company will pay on behalf of the **insured**, clean-up costs resulting from a **pollution condition** on or under the **insured’s own site** . . . .

\* \* \*

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<sup>6</sup> Nashville Downtown Hotel LLC, Turnberry Airport Holdings, LLC, and South Florida Aviation Investments, Inc. are insured under the Turnberry Manuscript.

<sup>7</sup> Relevant to this action, all Insureds except 831 Federal Highway Acquisition LLC d/b/a The Big Easy, Turnberry Airport Holdings, LLC, and South Florida Aviation Investments, Inc. are covered under the Pollution Policy.

#### D. Emergency Response Costs

The Company will pay on behalf of the **insured**, **emergency response costs** incurred by or on behalf of the **insured** in response to a **pollution condition** on, under or migrating from or through and beyond the boundaries of an **Insured's own site** . . . provided the **emergency response costs** be incurred within ninety six (96) hours of the commencement of such a **pollution condition**, and reported to the Company within ten (10) days of the commencement of such a **pollution condition** . . . .

\* \* \*

#### H. Business Interruption

The Company will pay the **insured's business interruption expense** and **extra expense** during the **interruption period**, caused directly by a **pollution condition** on or under the **insured's own site**, provided:

1. Such **pollution condition** results in **clean-up costs** covered under this Policy; and
2. The discovery of the **pollution condition** is first made during the **period of insurance** and reported to the Company during the **period of insurance**.

Ex. D.

38. "Pollution condition" is defined as follows:

**Pollution Condition** means the discharge, dispersal, release or escape, emission, seepage, or illicit abandonment by a third party without the **insured's** consent, of any **pollutant** into or upon land, or any structure on land, the atmosphere or any watercourse or body of water, including groundwater.

**Pollution condition** also means the presence of **microbial matter** within a structure.

*Id.*

39. The definition of "pollutant" was amended by endorsement to include "viruses" and "biological hazards:"

**Pollutant** means:

1. any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapor, odors, soot, fumes, acids, alkalis, toxic chemicals, hazardous substances, **microbial matter**, Legionella pneumophila, methamphetamines, electromagnetic fields, low level radioactive waste, medical waste including infection and pathological waste and waste materials, at levels in excess of those naturally occurring; or
2. Solely with respect to **clean-up costs**, bacteria or viruses as defined by the Center for Disease Control or local health department; or
3. Any **biological hazard**.

*Id.*

40. “Biological hazard” means “human blood or bodily fluids.”
41. “Clean-up costs” is defined as follows:

**Clean-up costs** means reasonable and necessary expenses, including legal expenses incurred with the Company’s written consent, which shall not be unreasonably withheld or delayed, for the investigation, removal, treatment, containment, neutralization, abatement, monitoring or disposal of soil, surface water, groundwater or other contamination:

1. To the extent required by **environmental laws**;
2. In the absence of any applicable **environmental laws**, to the extent recommended in writing by an **environmental professional**; or
3. That have actually been incurred by the government or any political subdivision of the United States of America or any state thereof or Canada or any province thereof, or by third parties.

**Clean-up costs** also includes **restoration costs**.

*Id.*

42. “Environmental law” means “any federal, state, provincial or local laws, including but not limited to, statutes, rules, regulations, ordinances, guidance documents,

voluntary clean-up programs, and governmental, judicial, or administrative orders and directives that are applicable to a **pollution condition**.” *Id.*

***The Big Easy Commercial Property Insurance Manuscript***

43. The following Defendants<sup>8</sup> issued a commercial property insurance program to 831 Federal Highway Acquisition LLC d/b/a The Big Easy, effective April 24, 2019 through April 24, 2020 (“Big Easy Manuscript”), as follows:

<b>Defendant</b>	<b>Policy No.</b>
Certain Underwriters at Lloyd’s, London	AQS- 190557; AQS- 190558
HDI Global Specialty SE	HAQS-190557; HAQS-190558
General Security Indemnity Company of Arizona	TR00093911900557; TR00093911900558
Crum & Forster Specialty Insurance Company	SRC-100428
Safety Specialty Insurance Company	SCO0000282

An exemplar policy from the Big Easy Manuscript is attached as Exhibit E.

44. Upon information and belief, except for coverage limits, the Big Easy Manuscript Insurers are bound by the same terms and conditions regarding the losses identified herein.

45. The Big Easy Manuscript grants Time Element coverage (and various additional coverages) on an all-risk basis:

**COVERED CAUSES OF LOSS AND EXCLUSIONS**

**A. Covered Causes of Loss**

Risks of Direct Physical Loss unless the loss is:

1. Excluded in Section **B.**, Exclusions; or
2. Limited in Section **C.**, Limitations.

Ex. E.

46. “Risks of Direct Physical Loss” is not further defined.

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<sup>8</sup> Collectively, the “Big Easy Manuscript Insurers”.

47. The Big Easy Manuscript covers business income lost during a necessary suspension of business operations, as well as extra expenses and lost rental value:

## **TIME ELEMENT COVERAGE**

### **A. COVERAGE**

\* \* \*

#### **1. Business Income**

- a. We will pay for your actual loss sustained of “business income” due to the necessary “suspension” of your “operations” during the “period of restoration”. The “suspension” must be caused by direct physical loss of or damage to Covered Property at an “insured location”. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, “insured location” includes the area within 250 feet of the “insured location”.

\* \* \*

#### **2. Extra Expense**

- a. We will pay “extra expense” (other than the expense to repair or replace property) to:
  - (1) Avoid or minimize the “suspension” of business and to continue operations at an “insured location” or at replacement premises or temporary “locations”, including relocation expenses and costs to equip and operate the replacement “location” or temporary “location”;
  - (2) Minimize the “suspension” of business if you cannot continue “operations” following direct, physical loss or damage to Covered Property at an “insured location” that is caused by or results from a Covered Cause of Loss.

\* \* \*

#### **4. Rental Value**

We will pay for the actual loss of “rental value” you sustain due to the necessary “suspension” of your “operations” during the “period of

restoration” caused by direct physical loss of or damage to Covered Property at an “insured location”. The loss or damage must be caused by or result from [a] Covered Cause of Loss.

Ex. E.

48. The Big Easy Manuscript also has coverage extensions for Civil Authority and Ingress or Egress:

#### **TIME ELEMENT COVERAGE**

\* \* \*

##### **B. Time Element Extensions of Coverage**

This policy includes the following extensions of coverage. These extensions will not increase the Limit of Liability of this policy and are subject to the applicable sub-limit and policy provisions, including applicable exclusions and deductibles.

##### **1. Civil Authority**

This policy is extended to cover, for up to the greater of fourteen (14) days or the number of days stated in the Sub-Limit of Liability section of the PROPERTY DAMAGE COVERAGE SCHEDULE, the actual loss of “business income” you sustain and necessary “extra expense” caused by action of civil authority that prohibits access to an “insured location” due to direct physical loss of or damage to property of the type covered, within one statute mile of that “insured location”, caused by or resulting from any Covered Cause of Loss.

\* \* \*

##### **4. Ingress or Egress**

This policy is extended to cover, for up to the greater of fourteen (14) days or the number of days stated in the Sub-Limit of Liability section of the PROPERTY DAMAGE COVERAGE SCHEDULE, the actual loss of “business income” you sustain due to the necessary “suspension” of your “operations” during the period of time when, as a direct result of direct physical damage caused by a Covered Cause of Loss to property of the type covered at an “insured location” or within one statute mile of an “insured location”, ingress to or egress from an “insured location” is thereby physically prevented.

*Id.*

49. The terms “direct physical loss of or damage to,” “direct, physical loss or damage,” and “direct physical damage” are not further defined. *See generally id.*

***The Insureds’ Losses Incurred in Connection with COVID-19***

50. The Insureds’ claims arise from the COVID-19 pandemic, which continues to threaten persons and property around the world, including in Florida, Massachusetts, and Tennessee. The pandemic’s source of origin is unknown.

51. COVID-19 is an infectious disease caused by SARS-CoV-2, a highly contagious virus that causes a variety of symptoms, including severe respiratory illness.

52. Humans infected with COVID-19 expel respiratory droplets that contain SARS-CoV-2. These respiratory droplets can attach to and contaminate surfaces or objects. Coronavirus contamination on surfaces or objects persists over time.

53. COVID-19 may be transmitted by contacting or inhaling respiratory droplets that contain SARS-CoV-2. These droplets linger in the air before descending on to surfaces or objects.

54. SARS-CoV-2 contamination alters property and renders it unsafe for use and/or occupation.

55. Upon information and belief, individuals infected with COVID-19 set foot on or near each of the Insured Properties.

56. Commencing in March 2020, the Insureds lost full or partial use of the Insured Properties when they were rendered unsafe for use and/or occupation due to SARS-CoV-2 contamination or the immediate threat of contamination.

57. The Insureds also lost full or partial use of their Insured Properties due to certain civil authority orders that impaired access to the Insured Properties. These civil authority orders



were issued in direct response to the COVID-19 pandemic and SARS-COV-2 contamination, or the immediate threat of contamination, at or near of each of the Insured Properties.

58. The Insureds suspended business operations at the Insured Properties because of SARS-CoV-2 contamination, the immediate risk of SARS-CoV-2 contamination, and/or applicable civil authority orders. These suspensions were necessary in order to protect persons and property from exposure to further SARS-CoV-2 contamination.

59. The Insureds lost significant revenue in connection with their necessary suspensions of business operations.

60. The Fontainebleau, Story, LIV, the JW Marriott, the Courtyard Marriott Boston, the Hilton Nashville Downtown, and Fontainebleau Aviation suffered further losses when nearby “leader properties” that attract business to the Insured Properties were closed due to SARS-CoV-2 contamination.

### ***The Insurance Claims***

61. The Insureds gave Defendants timely notice of their losses between late March and early April 2020.

62. Some Defendants responded and requested information about the Insureds losses.

63. The Insureds gave timely and detailed responses about their losses.

64. Defendants have not recognized coverage for any of the Insureds’ pending claims. Despite the wealth of publicly available knowledge about COVID-19 and the documentation supplied by the Insureds, Defendants contend the Insureds “[have] not identified any direct physical loss of or damage to property.”

65. The Insureds retained undersigned counsel to represent its interests in this matter and agreed to pay a reasonable fee for services rendered.

**COUNT I: DECLARATORY RELIEF**  
**(Fontainebleau Manuscript)**

66. The Insureds re-allege Paragraphs 1 through 65 above.

67. Each policy comprising the Fontainebleau Manuscript is an insurance contract issued for delivery in Florida and subject to Florida law.

68. The Insureds gave timely notice of their losses and complied with requests for information. All conditions precedent to bringing this action were performed, waived, or have otherwise occurred.

69. There is a bona fide, actual, present, and practical need for a legal determination by this Court of the duties, rights, and obligations owed under the Fontainebleau Manuscript as applied to coverage for the Insureds' losses described herein.

70. Pursuant to § 86 FLA. STAT., the Insureds are entitled to a declaration that they suffered losses covered under the Fontainebleau Manuscript.

71. All necessary parties and interests will appear before the Court in this action.

72. The Insureds request declarations that:

- a. The threat of SARS-CoV-2 contamination posed by the COVID-19 pandemic is a "risk of direct physical loss of or damage to property" under § 8 of the Fontainebleau Manuscript;
- b. SARS-CoV-2 contamination causes "loss, damage, or destruction" under §§ 6.B.(1), 6.E., 6.F., and 6.G.(1) of the Fontainebleau Manuscript;
- c. SARS-CoV-2 contamination causes "direct physical loss, damage, or destruction" under §§ 6.C. and 6.D. of the Fontainebleau Manuscript;
- d. SARS-CoV-2 contamination causes "physical damage" or "destruction" under § 6.G.(1)(e) of the Fontainebleau Manuscript; and
- e. SARS-CoV-2 contamination causes "physical damage" under §§ 6.G.(2)-(3) under the Fontainebleau Manuscript.

WHEREFORE, the Insureds respectfully request the declarations set forth herein, and any further relief this Court deems equitable and proper, including the award of attorney's fees and costs pursuant to §§ 627.428 and/or 626.9373 FLA. STAT., as applicable.

**COUNT II: DECLARATORY RELIEF**  
**(Turnberry Manuscript)**

73. The Insureds re-allege Paragraphs 1 through 65 above.

74. Each policy comprising the Turnberry Manuscript is an insurance contract issued for delivery in Florida and subject to Florida law.

75. The Insureds gave timely notice of their losses and complied with requests for information. All conditions precedent to bringing this action were performed, waived, or have otherwise occurred.

76. There is a bona fide, actual, present, and practical need for a legal determination by this Court of the duties, rights, and obligations owed under the Turnberry Manuscript as applied to coverage for the Insureds' losses described herein.

77. Pursuant to § 86 FLA. STAT., the Insureds are entitled to a declaration that they suffered losses covered under the Turnberry Manuscript.

78. All necessary parties and interests will appear before the Court in this action.

79. The Insureds request declarations that:

- a. The threat of SARS-CoV-2 contamination posed by the COVID-19 pandemic is a "risk of direct physical loss of or damage to property" under § 9 of the Turnberry Manuscript;
- b. SARS-CoV-2 contamination causes "loss, damage, or destruction" under §§ 7.B.(1), 7.E., and 7.G.(1) of the Turnberry Manuscript;
- c. SARS-CoV-2 contamination causes "direct physical loss, damage, or destruction" under §§ 7.C., 7.D., 7.F., and 7.G. of the Turnberry Manuscript;

- d. SARS-CoV-2 contamination causes “physical damage” or “destruction” under § 7.G.(1)(d) of the Turnberry Manuscript; and
- e. SARS-CoV-2 contamination causes “physical damage” under §§ 7.G.(2)-(3) under the Turnberry Manuscript.

WHEREFORE, the Insureds respectfully request the declarations set forth herein, and any further relief this Court deems equitable and proper, including the award of attorney’s fees and costs pursuant to §§ 627.428 and/or 626.9373 FLA. STAT., as applicable.

**COUNT III: DECLARATORY RELIEF**  
**(Pollution Policy)**

80. The Insureds re-allege Paragraphs 1 through 65 above.

81. The Pollution Policy is an insurance contract issued for delivery in Florida and subject to Florida law.

82. The Insureds gave timely notice of their losses and complied with requests for information. All conditions precedent to bringing this action were performed, waived, or have otherwise occurred.

83. There is a bona fide, actual, present, and practical need for a legal determination by this Court of the duties, rights, and obligations owed under the Pollution Policy as applied to coverage for the Insureds’ losses described herein.

84. Pursuant to § 86 FLA. STAT., the Insureds are entitled to a declaration that they suffered losses covered under the Pollution Policy.

85. All necessary parties and interests will appear before the Court in this action.

86. The Insureds request declarations that:

- a. SARS-CoV-2 contamination is a “pollution condition” under §§ 1.A., 1.D., 1.H., and 4.Z. of the Pollution Policy; and

- b. State and local orders of civil authority that required the Insureds to totally or partially suspend business operations in connection with COVID-19 are “environmental laws” under §§ 4.D. and 4.H. of the Pollution Policy.

WHEREFORE, the Insureds respectfully request the declarations set forth herein, and any further relief this Court deems equitable and proper, including the award of attorney’s fees and costs pursuant to §§ 627.428 and/or 626.9373 FLA. STAT., as applicable.

**COUNT IV: DECLARATORY RELIEF**  
**(Big Easy Manuscript)**

87. The Insureds re-allege Paragraphs 1 through 65 above.

88. Each policy comprising the Big Easy Manuscript is an insurance contract issued for delivery in Florida and subject to Florida law.

89. The Insureds gave timely notice of their losses and complied with requests for information. All conditions precedent to bringing this action were performed, waived, or have otherwise occurred.

90. There is a bona fide, actual, present, and practical need for a legal determination by this Court of the duties, rights, and obligations owed under the Big Easy Manuscript as applied to coverage for the Insureds’ losses described herein.

91. Pursuant to § 86 FLA. STAT., the Insureds are entitled to a declaration that they suffered losses covered under the Big Easy Manuscript.

92. All necessary parties and interests will appear before the Court in this action.

93. The Insureds request declarations that:

- a. The threat of SARS-CoV-2 contamination posed by the COVID-19 pandemic is a “risk of direct physical loss” under Covered Causes of Loss and Exclusions § A. of the Big Easy Manuscript;
- b. SARS-CoV-2 contamination causes “direct physical loss of or damage to [property]” under Time Element Coverage §§ A.1., A.4., B.1., and B.2. of the Big Easy Manuscript;

- c. SARS-CoV-2 contamination causes “direct, physical loss or damage” under Time Element Coverage § A.2. of the Big Easy Manuscript;
- d. SARS-CoV-2 contamination causes “direct physical loss or damage” under Time element Coverage § B.3. of the Big Easy Manuscript; and
- e. SARS-CoV-2 contamination causes “direct physical damage” under Time Element Coverage § B.4. of the Big Easy Manuscript;

WHEREFORE, the Insureds respectfully request the declarations set forth herein, and any further relief this Court deems equitable and proper, including the award of attorney’s fees and costs pursuant to §§ 627.428 and/or 626.9373 FLA. STAT., as applicable.

**DEMAND FOR TRIAL BY JURY**

The Insureds request a jury trial for all issues so triable.

Dated: July 1, 2021

Respectfully Submitted,

**VER PLOEG & MARINO, P.A.**  
100 S.E. Second Street, Suite 3300  
Miami, FL 33131  
305-577-3996  
305-577-3558 *facsimile*

/s/ Stephen A. Marino  
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*Counsel for the Insureds*

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**EXHIBIT A**



1345 Avenue of The Americas 4th Floor  
New York, NY 10105  
Ph: 212-437-1400  
www.rtspecialty.com

19215394

## Florida Face Page

**Insured's Name:** Fontainebleau Florida Hotel, LLC

**Policy Number:** D42273223 001

**UMR Number:**

**Policy Dates:** 6/1/2019 to 6/1/2020

**Surplus Lines Agent's Name:** Michelle Goldman

**Surplus Lines Agent's Address:** 1345 Avenue of the Americas , New York NY 10105

**Surplus Lines Agent's License Number:** E147589

**Producing Agent's Name:** Carolyn Harris

**Producing Agent's Physical Address:** 1450 Brickell Ave. Suite 1600 Miami, FL 33131

**"THIS INSURANCE IS ISSUED PURSUANT TO THE FLORIDA SURPLUS LINES LAW. PERSONS INSURED BY SURPLUS LINES CARRIERS DO NOT HAVE THE PROTECTION OF THE FLORIDA INSURANCE GUARANTY ACT TO THE EXTENT OF ANY RIGHT OF RECOVERY FOR THE OBLIGATION OF AN INSOLVENT UNLICENSED INSURER."**

**"SURPLUS LINES INSURERS' POLICY RATES AND FORMS ARE NOT APPROVED BY ANY FLORIDA REGULATORY AGENCY."**

**Premium:** \$616,000.00

**TRIA/Terrorism:** REJECTED

**Fees:**

**Taxes:**

Surplus Lines Tax \$30,604.11

State Service Office \$616.00

DEM EMPA Surcharge \$4.00

**Total Cost:** \$647,224.11

A handwritten signature in black ink, appearing to read 'Michelle Goldman'.

**Surplus Lines Agent's Countersignature:**

☒ "THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE OR WIND LOSSES, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

☐ "THIS POLICY CONTAINS A CO-PAY PROVISION THAT MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."



# *Westchester Surplus Lines Insurance Company*

---

11575 Great Oaks Way  
Suite 200  
Alpharetta, GA 30022

## NOTICE

**POLICY NO.** D42273223 001

**NAME OF INSURED:** Fontainebleau Florida Hotel, LLC

**ADDRESS:** 4441 Collins Ave  
Miami, FL 33140

We are pleased to enclose your policy for this account.

Please be advised that by binding this risk with the above referenced Surplus Lines Insurance Company, you agree that as the Surplus Lines Broker responsible for the placement of this insurance policy, it is your obligation to comply with all States Surplus Lines Laws including completion of any declarations/affidavits that must be filed as well as payment of any and all Surplus Lines taxes that must be remitted to the State(s). We will look to you for indemnification if controlling Surplus Lines Laws are violated by you as the Surplus Lines broker responsible for the placement.

You further confirm that any applicable state requirement concerning a diligent search for coverage by admitted carriers has been fulfilled in accordance with state law.

Thank you for this placement and your regulatory compliance.

Date: 7/30/2019

# Policy Declarations

**Westchester**  
A Chubb Company

TM

Policy No. D42273223 001	Renewal of: NEW
--------------------------	-----------------

<b>NAMED INSURED &amp; MAILING ADDRESS</b>
Fontainebleau Florida Hotel, LLC 4441 Collins Ave Miami, FL 33140

POLICY PERIOD	
When Coverage Begins: 06/01/2019	12:01 A. M. Local Time At The Location Of Covered Property
When Coverage Ends: 06/01/2020	12:01 A. M. Local Time At The Location Of Covered Property

<b>INSURING COMPANY</b>	Producer's Name & Address:
<b>Westchester Surplus Lines Insurance Company</b>	R-T SPECIALTY 1345 AVENUE OF THE AMERICAS 4TH FLOOR NEW YORK, NY 10105
	Producer No: 78695W

THIS INSURANCE IS ISSUED PURSUANT TO THE FLORIDA SURPLUS LINES LAW. PERSONS INSURED BY SURPLUS LINES CARRIERS DO NOT HAVE THE PROTECTION OF THE FLORIDA INSURANCE GUARANTY ACT TO THE EXTENT OF ANY RIGHT OF RECOVERY FOR THE OBLIGATION OF AN INSOLVENT UNLICENSED INSURER.

SURPLUS LINES INSURERS' POLICY RATES AND FORMS ARE NOT APPROVED BY ANY FLORIDA REGULATORY AGENCY.

<b>ATTACHED FORMS</b>
This policy is completed by the following: BB-5W58a -PA (05/18) and forms and endorsements attached thereto.

<b>Authorization Information</b>
Dated: 07/30/2019
 JOHN J. LUPICA, President Authorized Representative

**Westchester**  
A Chubb Company

Company Name: Westchester Surplus Lines Insurance Company  
 Producer's Name & Address:  
 R-T SPECIALTY  
 1345 AVENUE OF THE AMERICAS 4TH FLOOR  
 NEW YORK, NY 10105  
 78695W

## Business Description: Hotels

12:01 A.M. Local Time At The Location Of Covered Property

12:01 A.M. Local Time At The Location Of Covered Property

**In return for the payment of premium, and subject to all the terms and conditions of this policy, we agree to provide the insurance as stated in this policy.**


The premium for this policy is indicated below next to the applicable Coverage Form(s).

## Coverage Form

**Total Premium: \$ 616,000.00**

Minimum Earned Premium: \$ \*215,600.00

**See Forms Schedule CPfs2-PA**

Date: **07/30/2019**

JOHN J. LUPICA, President

Authorized Representative

**Internal Reference Number:**

**These Declarations together with the Coverage Declarations, Common Policy Conditions and Coverage Conditions (if applicable), Coverage Form(s) and Forms and Endorsements, if any, issued to form a part thereof, complete the above numbered policy.**

# Forms Schedule

Company: Westchester Surplus Lines Insurance Company  
 SYM: FS Policy ID: D42273223 001

<b>Policy Period</b>	When Coverage Begins: <b>06/01/2019</b> 12:01 A.M. Local Time At The Location Of Covered Property
	When Coverage Ends: <b>06/01/2020</b> 12:01 A.M. Local Time At The Location Of Covered Property
<b>Applicable to all Coverage Parts</b>	<b>SLPD-PA (04/18)-Surplus Lines Declarations</b> <b>BB-5W58a -PA (05/18)-Common Policy Declarations</b> <b>SL-44730a (01/16)-Service Of Suit Endorsement - Florida</b> <b>TRIA24 (01/15)-Policyholder Disclosure Notice of Terrorism Insurance Coverage</b> <b>ALL-20887 (10/06)-CHUBB Producer Compensation Practices &amp; Policies</b> <b>ALL-21101 (11/06)-Trade or Economic Sanctions Endorsement</b> <b>ALL-5X45 (11/96)-Questions About Your Insurance</b> <b>IL P 001 01 04-U.S. Treasury Departments' Office of Foreign Assets Control ("OFAC") Advisory Notice to Policyholders</b> <b>MA-608255p (04/15)-Claims Directory Property and Inland Marine</b> <b>LD-5S23j (03/14)-Signature Endorsement</b>
<b>Commercial Property</b>	<b>ACE0745 (09/12)-Certificate Of Insurance - Automatic Additional Insured And Loss Payee Endorsement</b> <b>ACE0210 (01/08)-Nuclear, Biological, Chemical, Radiological Exclusion Endorsement</b> <b>ACE061 (08/18)-Asbestos Material Exclusion (Named Peril Exception)</b> <b>ACE0668 (01/15)-Claims Adjustment</b> <b>ACE100 (12/14)-Pollution Exclusion And Pollutant CleanUp And Removal Coverage Extension Endorsement</b> <b>ACE126 (10/14)-Electronic Data Amendment Endorsement</b> <b>ALL-10750 (01/15)-Terrorism Exclusion Endorsement</b> <b>MS 283799 (07-19)-General Amendatory Endorsement</b> <b>Fontainebleau Florida Hotel Property Policy</b>
<b>Commercial Inland Marine</b>	<b>Not Covered</b>
<b>Commercial General Liability</b>	<b>Not Covered</b>
<b>Commercial Equipment Breakdown</b>	<b>Included</b>

## PARTICIPATION PAGE

In consideration of the premium charged, the subscribers hereto, hereinafter referred to as the Insurer(s) and/or Company(ies) , do severally, but not jointly, agree to indemnify the Insured for the amount recoverable in accordance with the terms and conditions of the Policy.

Provided that:

1. The collective liability of Insurers shall not exceed the Limit of Liability or any appropriate Sublimit of Liability or any Annual Aggregate limit.
2. The liability of each of the Insurers shall not exceed the Participation Limit set against its name with the exception of loss adjustment and professional fees which cost shall be 100% assume by the Insurers on each applicable layer of insurance.

Nothing herein contained shall be held to vary, alter, waive or change any of the terms, limits or conditions of the policy except as herein above set forth.

<b>Insurer</b>	<b>Policy No.</b>	<b>Participation</b>	<b>Premium</b>	<b>Authorized Signature</b>
Westchester Surplus Lines Insurance Co.	D42273223 001	22% or \$5,500,000 part of Primary \$25,000,000	\$616,000	

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## NAMED INSURED AND MAILING ADDRESS

Parties insured under this Policy include the Named **Insured, identified below**, (and included in Appendix A, attached), and any subsidiary, affiliated, associated or allied company, corporation, firm, organization, and the Insured's interest in partnerships and/or joint ventures and/or any owned (wholly or partially) or controlled company(ies) where the **Insured** maintains an interest, as now or hereafter constituted or acquired; and any other party or interest that the Insured is required by contract or agreement to insure as their interests may appear:

Fontainebleau Florida Hotel, LLC.

HEREAFTER REFERRED TO AS "THE INSURED"

MAILING ADDRESS: 4441 Collins Avenue  
Miami Beach, FL 33140

### 1. TERM OF INSURANCE

In consideration of the Annual Premium paid, this policy attaches and covers for a period of One Year, from June 1, 2019 to June 1, 2020, beginning and ending at 12:01 A.M., standard time, at the location of the property involved.

The actual effective time of attachment of this insurance on the above date shall be the same time as the actual effective time of cancellation or expiration of policy(ies) replaced or renewed by this policy.

### 2. LIMITS OF LIABILITY

The Company's maximum limit of liability in a single occurrence regardless of the number of locations or coverages involved will not exceed the policy limit of liability of USD 717,000,000.

When a limit of liability for a location or other specified property is shown, such limit will be the maximum amount payable for any loss or damages arising from physical loss or damage at such location or involving such other specified property.

If a lesser limit of liability is stated below or elsewhere in this policy, the lesser limit will apply. The limits of liability stated below or elsewhere in this policy are part of and not in addition to the policy limit of liability.

Limits of liability stated below or elsewhere apply in the aggregate per occurrence for all locations and coverages involved. When a limit of liability is shown as applying in the Aggregate during any policy term, the Company's maximum limit of liability will not exceed its proportional share of such a limit during any policy term.



regardless of the number of locations, coverages and occurrences involved.

- A. With respect to the peril of Flood as defined in Section 12, this Company shall not be liable, per occurrence and in the aggregate for the policy term, for more than its proportion of USD250,000,000.
- B. With respect to the peril of Flood as defined in Section 12 for locations wholly within 100 Year Flood areas, this Company shall not be liable, per occurrence and in the aggregate for the policy term, for more than its proportion of USD150,000,000.

100 Year Flood areas are:

Areas which at the time of loss or damage has been designated on a Flood Insurance Rate Map (FIRM) to be located wholly within a Special Flood Hazard Area (SFHA);

Flood Insurance Rate Map (FIRM) shall mean the official map of a community on which the Administrator has designated the special hazards areas applicable to the community.

Special Flood Hazard Area (SFHA) shall mean the areas of a flood insurance rate map which the FIRM identifies as, including but not limited to, Zones A, AO, AH, A1-A30, AE, A99, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V, V1-V30, and VE.

- C. With respect to the peril of Named Windstorm this Company shall not be liable, per occurrence for more than its proportion of USD250,000,000.
- D. With respect to the peril of Earthquake as defined in Section 12, this Company shall not be liable, per occurrence and in the aggregate for the policy term, for more than its proportion of USD250,000,000.
- E. With respect to the Seepage and/or Pollution and /or Contamination Exclusion; Debris Removal and Cost of Clean-up extension, this Company shall not be liable, per occurrence and in the aggregate for the policy term, for more than its proportion of USD2,500,000;
- F. With respect to the Land & Water Contamination or Pollution Cleanup, Removal and Disposal, this Company shall not be liable, per occurrence and in the aggregate for the policy term, for more than its proportion of USD10,000,000;
- G. INCLUDED per Accident per Machinery Breakdown
- H. USD75,000,000 per occurrence Leasehold Interest
- I. USD250,000,000 per occurrence Course of Construction

- J. USD100,000,000 per occurrence Newly Acquired Property (for the first 10 days from acquisition);
- K. USD30,000,000 per occurrence Newly Acquired Property (for 11-90 days from the date of acquisition);
- L. USD30,000,000 per occurrence Miscellaneous Unnamed Locations
- M. USD30,000,000 per occurrence Errors & Omissions
- N. USD30,000,000 per occurrence Accounts Receivable
- O. USD10,000,000 per occurrence Valuable Papers
- P. USD2,500,000 per occurrence Loss Adjustment Expenses
- Q. USD5,000,000 per conveyance as respects property in transit
- R. USD30,000,000 Trees, Plants & Shrubs
- S. USD100,000,000 per occurrence Service Interruption – Property Damage & Time Element limited to 10 miles
- T. USD2,500,000 per occurrence Radioactive Contamination
- U. USD5,000,000 per occurrence Royalties
- V. POLICY LIMIT per occurrence Law and Ordinance (Demolition, Value of Undamaged Portion, Increased Time to Rebuild)
- W. Greater of 25% of loss or USD75,000,000 per occurrence Debris Removal of Insured Property
- X. USD50,000,000 Expediting Expenses
- Y. 90 Days / 5 Miles per occurrence Ingress / Egress
- Z. 90 Days / 5 Miles per occurrence Civil or Military Authority
- AA. USD25,000,000 per occurrence Contingent Time Element - Property Damage and Time Element Combined
- BB. USD5,000,000 Leader Property limited to 25 Miles
- CC. USD1,000,000 per occurrence Arson Reward

- DD. USD30,000,000 per occurrence Fine Arts
- EE. USD5,000,000 per occurrence Emergency Vacating Expenses
- FF. USD500,000 per occurrence Locks & Keys
- GG. USD10,000,000 per occurrence Tenant Relocation Expenses
- HH. USD30,000,000 per occurrence Resulting Damage for Mold, Mildew or Fungus
- II. Extended Period of Indemnity 18 Months
- JJ. USD 15,000,000 per occurrence Land Improvements as respects tees, greens, bunkers and golf course improvements (but no more than \$500,000 per hole)

### **3. DEDUCTIBLES**

All losses, damages or expenses arising out of any one occurrence shall be adjusted as one loss, and from the amount of such adjusted loss shall be deducted USD50,000 except:

- A. \$500,000 Combined Property Damage and Business Interruption for the peril of Flood for locations wholly located within a 100 Year Flood area for which a claim is being made. However, this deductible shall not apply to ensuing loss or damage not otherwise excluded herein.

In the event that the Insured maintains underlying insurance through the National Flood Insurance Program, it is agreed that this policy excludes the peril of flood to the extent of recovery under such National Flood Insurance Policy(s). Should the amount of loss payable under such National Flood Insurance Policy(s) exceed the applicable flood deductible under this policy, then no deductible shall apply hereunder. However, if the amount to be paid under such National Flood Insurance Policy(s) is less than the applicable flood deductible under this policy, then the amount to be deducted hereunder shall not exceed the difference between the amount to be paid under the Insured's National Flood Insurance Policy(s) and the applicable flood deductible under this policy. Insurance maintained through the National Flood Insurance Program shall be considered Underlying Insurance.

- B. The following deductible(s) applies to loss or damage caused by or resulting from a Named Windstorm to property located in the state of Florida:

5% of the reported value per unit of insurance at the time when such loss occurs at locations within the State of Florida

The above Named Windstorm deductible is subject to a minimum deductible of USD100,000 for Property Damage and Time Element combined, per Occurrence. However, this deductible shall not apply to ensuing loss or damage not otherwise excluded herein.

- C. USD10,000 per occurrence Fine Arts
- D. USD10,000 per occurrence Machinery Breakdown
- E. USD 50,000 combined Property Damage and Time Element per occurrence after 24 hour waiting period for Service Interruption

The following shall be considered a separate unit of insurance: (a) each separate building or structure; (b) the improvements and betterments within each building (c) the contents of each separate building or structure; (d) property in each yard; (e) rental value; (f) business interruption as defined in Clause 6.B. for the twelve month period immediately following the loss.

If two or more deductible amounts in this policy apply to a single occurrence, the total to be deducted shall not exceed the largest deductible.

In any occurrence where loss or damage is caused by more than one peril insured against under this policy, the Insured shall have the right to separate the loss amount by peril for the purposes of application of the deductible(s) specified in this section, notwithstanding the above reference to two or more deductibles and the policy limits.

As respects theft, the term Occurrence as referred to elsewhere within the policy means the sum total of all losses of covered property, during the Policy Period, resulting from one or more concealed acts committed by one person or more than one person acting in unison to the extent such loss is not otherwise excluded under this policy.

The deductible amounts specified above shall not apply to general average contributions, salvage charges and sue and labor expenses.

The New Madrid earthquake zone is defined by locations in the following:

Arkansas, counties of:

Clay, Craighead, Crittenden, Cross, Greene, Independence, Jackson, Lawrence, Lee, Mississippi, Phillips, Poinsett, Randolph, Sharp, St. Francis

Illinois, counties of:

Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Massac, Perry, Pope, Pulaski, Saline, Union, White, Williamson

Kentucky, counties of:

Ballard, Caldwell, Calloway, Carlisle, Crittenden, Fulton, Graves, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Muhlenberg, Union, Webster

Mississippi, counties of:

Coahoma, DeSoto, Panola, Quitman, Tallahatchie, Tate, Tunica

Missouri, counties of:

Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Madison, Mississippi, New Madrid, Pemiscot, Perry, Ripley, Scott, Stoddard, Wayne

Tennessee, counties of:

Benton, Carroll, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Henderson, Henry, Humphreys, Lake, Lauderdale, Madison, Obion, Shelby, Tipton, Weakley

The Pacific Northwest Earthquake Zone is defined by locations in the following:

Washington, counties of:

Clallam, Island, Jefferson, King, Kitsap, Mason, Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom

Vancouver, B.C. & Suburbs:

Burnaby, Coquitlam, Delta, New Westminister, North Vancouver, Port Coquitlam, Port Moody, Richmond, Surrey, West Vancouver

The First (1<sup>st</sup>) Tier windstorm areas are defined by locations in the following counties and/or parishes:

State	Tier 1 Counties
Alabama	Baldwin, Mobile
Florida	Escambia, Santa Rosa, Walton, Bay, Gulf, Wakulla, Jefferson, Taylor Dixie, Levy, Citrus, Hernando, Pasco, Pinellas, Hillsborough, Manatee, Sarasota., Charlotte, Lee, Collier, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Brevard, Volusia, Flagler, St. Johns, Duval, Nassau.
Georgia	Bryan, Camden, Chatham, Glynn, Liberty, McIntosh
Hawaii	Entire State
Louisiana	Cameron, Iberia, Jefferson, Lafourche, Orleans, Plaquemines, St. Mary, St. Bernanrd, St. Tammany, Terrebonne, Vermilion

Mississippi	Hancock, Harrison, Jackson
North Carolina	Beaufort, Brunswick, Carteret, Craven, Dare, Hyde, New Hanover, Onslow, Pamlico, Pender
South Carolina	Beaufort, Berkley, Charleston, Colleton, Georgetown, Horry, Jasper
Texas	Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Harris, Jackson, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refugio, San Patricio, Victoria, Willacy
Virginia	Accomack, Northampton, Virginia Beach City, Chesapeake, Gloucester, Hampton City, Lancaster, Mathews, Middlesex, Newport News, Norfolk City, Northumberland, Poquoson City, Portsmouth city, Suffolk City, York

#### **4. LOSS PAYABLE**

Loss, if any, shall be adjusted with and payable to Fontainebleau Miami, JV, LLC or order, whose receipt shall constitute a release in full of all liability under this policy with respect to such loss.

#### **5. TERRITORY**

This policy covers loss occurring anywhere within the 50 states comprising the United States of America, the District of Columbia, Puerto Rico, the Virgin Islands, and Canada.

#### **6. COVERAGE**

Except as hereinafter excluded, this policy covers the following while at or within 2,500 feet of a location on the schedule of locations on file with the company and including newly acquired locations and miscellaneous unnamed locations or while in transit within this policy's territory:

##### **A. Real and Personal Property**

- (1) The interest of the Insured in all real and personal property including but not limited to property owned, used, leased or intended for use by the Insured, or hereafter constructed, erected, installed, or acquired, including while in course of construction, erection, installation, and assembly. In the event of loss or damage, this Company agrees to accept and consider the Insured as sole and unconditional owner of improvements and betterments, notwithstanding any contract or leases to the contrary.
- (2) The interest of the Insured in real and personal property of others in the Insured's care, custody, or control.

- (3) Real and Personal Property which the Insured is responsible for as imposed by law upon the Insured, assumed by contract or specific agreement prior to loss for direct damage of the type insured against.
- (4) At the option of the Insured, personal property of the Insured's officials, employees and representatives while on the premises of the Insured except motor vehicles licensed for highway use. This insurance shall then act as primary insurance.
- (5) Contractors' and vendors' interest in property covered to the extent of the Insured's liability imposed by law or assumed by contract, whether written or oral. Such contractors or vendors interest shall not extend to any time element coverage provided under this policy.
- (6) Newly Acquired Locations: Notwithstanding the above provision that a location must be on a schedule of locations in order to be covered, this policy does insure, subject to the Newly Acquired Locations limit of liability, real & personal property (including business interruption, extra expense, rental value, royalties, and time element extensions) at any location rented, leased, purchased, or acquired by the Insured after the inception date of this policy from the date of acquisition of such property for the period(s) of time shown under Section 2 Limits of Liability, until reported to the company, or until agreement is reached that the property will not be covered by this policy, whichever is soonest.
- (7) Miscellaneous Unnamed Locations: Notwithstanding the above provision that a location must be on a schedule of locations in order to be covered, this policy does insure, subject to the Miscellaneous Unnamed Locations limit of liability, Unnamed Locations (including business interruption, extra expense, rental value, royalties, and time element extensions) that are located within the policy's territory.

An Unnamed Location is a location that is not listed on the schedule of locations reported to and on file with the company; is not a Newly Acquired Location nor covered under the terms of the Errors & Omissions coverage extension and is a building, yard, dock, wharf, pier or bulkhead (or any group of the foregoing) bounded on all sides by public streets, clear land space or open waterways, each separation not less than fifty (50) feet wide. Any bridge or tunnel crossing such street, space or waterway will render such separation inoperative for the purposes of defining an Unnamed Location.

## **B. Business Interruption**

- (1) Loss of business income resulting from necessary interruption of business conducted by the Insured, whether total or partial, and caused by

loss, damage, or destruction covered herein during the term of this policy to real and personal property as described in Clause 6.A.

By way of clarification, this policy shall also cover the loss of fee income to the Insured as stipulated under a management and/or related services agreement between the Insured and another party which is not realizable due to loss, damage, or destruction covered herein during the term of this policy to locations managed by the Insured and covered under this policy.

- (2) If such loss occurs during the term of this policy, it shall be adjusted on the basis of ACTUAL LOSS SUSTAINED by the Insured, consisting of the net profit which is thereby prevented from being earned and charges and expenses only to the extent that these must necessarily continue during the interruption of business including 365 days Ordinary Payroll and only to the extent such charges and expenses would have been earned had no loss occurred.

"Ordinary payroll" is defined to be the entire payroll expense for all employees of the Insured except officers, executives, department managers, employees under contract, and other important employees as determined by the Insured.

- (3) In the event of loss, damage, or destruction covered herein to property as described in Clause 6.A, which results in an interruption of research and development activities which in themselves would not have produced income during the indemnity period, this policy shall cover the actual loss sustained of the continuing fixed charges and expenses, including 365 days Ordinary Payroll directly attributable to such research and development activities.
- (4) However, this Company shall not be liable under this Clause B. for any loss resulting from damage to or destruction of finished stock nor for the time required to reproduce said finished stock. Finished stock shall mean stock manufactured by the Insured which in the ordinary course of the Insured's business is ready for packing, shipment, or sale.
- (5) Resumption of Operations: If the Insured, by reasonable means within its control, could reduce the loss resulting from the interruption of business:
  - (a) by a complete or partial resumption of operation of the property insured, whether damaged or not; or
  - (b) by making use of available stock, merchandise, or other property;

such reduction shall be taken into account in arriving at the amount of loss hereunder.



(6) Experience of the Business:

- (a) In determining the amount of net profit, charges and expenses covered hereunder for the purpose of ascertaining the amount of loss sustained, due consideration shall be given to the experience of the business before the date of damage or destruction and to the probable experience thereafter had no loss occurred to real or personal property as described in Clause 6.A.
- (b) With respect to alterations, additions, and property while in the course of construction, erection, installation, or assembly, due consideration shall be given to the available experience of the business after completion of the construction, erection, installation, or assembly.

**C. Extra Expense**

- (1) Extra Expense incurred by the Insured resulting from direct physical loss, damage, or destruction covered herein during the term of this policy to real or personal property as described in Clause 6.A.
- (2) "Extra Expense" means the reasonable and necessary excess of the total cost chargeable to the operation of the Insured's business over and above the total cost that would normally have been incurred to conduct the business had no loss or damage occurred.

**D. Rental Value**

- (1) Rental Value loss sustained by the Insured resulting from direct physical loss, damage, or destruction covered herein during the term of this policy to real and personal property as described in Clause 6.A. but not exceeding the reduction in rental value less charges and expenses which do not necessarily continue.
- (2) "Rental Value" is defined as the sum of:
  - (a) the total anticipated gross rental income from tenant occupancy of the described property as furnished and equipped by the Insured, including taxes, rent based on percentage of sales, and other expenses paid by the tenants in respect of the leased premises; and
  - (b) the amount of all charges which are the legal obligation of the tenant(s) and which would otherwise be obligations of the Insured; and

- (c) the fair rental value of any portion of said property which is occupied by the Insured.
- (3) Experience of the Business:
  - (a) In determining the amount of rental value covered hereunder for the purposes of ascertaining the amount of loss sustained, due consideration shall be given to the rental experience before the date of damage or destruction and to the probable experience thereafter had no loss occurred to real and personal property as described in Clause 6.A.
  - (b) With respect to alterations, additions, and property while in the course of construction, erection, installation, or assembly, due consideration shall be given to the available rental experience of the business after completion of the construction, erection, installation, or assembly.

#### **E. Royalties**

- (1) Loss of income to the Insured under royalty, licensing fees, or commission agreements between the Insured and another party which is not realizable due to loss, damage, or destruction by any of the perils covered herein during the term of this policy to property of the other party.
- (2) If such loss occurs during the term of this policy, it shall be adjusted on the basis of ACTUAL LOSS SUSTAINED of such income referred to in paragraph 1 above, which would have been earned had no loss occurred.
- (3) Resumption of Operations: The Insured shall influence, to the extent reasonably possible, the party with whom the agreement described in paragraph 1 above has been made to use any other machinery, supplies or locations in order to resume business so as to reduce the amount of loss hereunder, and the Insured shall cooperate with that party in every reasonable way to effect this, but not financially unless such expenditures shall be authorized and paid by this Company.
- (4) Experience of the Business: In determining the amount of income derived from the agreement(s) described in paragraph 1 above for the purpose of ascertaining the amount of loss sustained, due consideration shall be given to the amount of income derived from such agreement(s) before the date of damage or destruction and to the probable amount of income thereafter had no loss occurred to real and personal property of the type insured under this policy of such other party.

#### **F. Soft Costs**

Soft Costs, as hereinafter described, incurred by the Insured and caused by loss, damage, or destruction covered herein during the term of this policy to real or personal property as described in Clause 6.A.

Recovery in the event of loss hereunder shall be limited to such necessary soft costs over and above those costs which would have been incurred by the Insured had no loss occurred.

For the purposes of this insurance, "soft costs" are defined as those costs over and above the costs which normally have been incurred by the Insured, including, but not limited to:

- (i) the amount of actual interim or construction financing interest, including loan fees and other one-time charges incurred to negotiate a construction loan and/or extend the existing one;
- (ii) realty taxes and ground rent if any;
- (iii) advertising and promotional expenses;
- (iv) cost of additional commissions (including but not limited to real estate commissions);
- (v) architects, surveyors, legal, consulting engineers, or other fees not otherwise covered under this policy;
- (vi) project administration expense;
- (vii) insurance premiums; (other than Insurance premium for this policy)
- (viii) finder's fee refunds.

#### **G. Time Element Extensions**

- (1) This policy, subject to all provisions and without increasing the limits of this policy, is extended to cover the actual loss sustained by the Insured resulting from necessary interruption of the business conducted by the Insured, whether partial or total, caused by loss, damage or destruction covered herein during the term of this policy to:
  - (a) Service Interruption: real and personal property of the type described in clause 6.A. and not otherwise excluded and owned, leased or used by electrical, steam, gas, water, sewer, telecommunications (excluding satellites), or any other utility or service, transmission and distribution lines located within 10

miles of the Insured's premises and related plants, substations and equipment situated on or outside of the premises; and,

**Service Interruption Property Damage:**

Physical loss or damage at a described location resulting from the interruption of electrical, steam, gas, water, sewer, telecommunications (excluding satellites), or any other utility or service, transmission and distribution lines and related plants, substations and equipment situated on or outside of the premises.

The company will not be liable for such loss or damage unless the period of recovery exceeds the period of time shown as the waiting period described in Section 3 Deductibles. Upon the period of recovery exceeding the waiting period, the company shall then be liable for such loss or damage for the entire period of recovery and the applicable deductible per Section 3 will apply. The period of recovery shall mean the period starting with the time when the interruption occurs and ending when with due diligence and dispatch the service could be wholly restored.

The company will not be liable if the interruption of such utility or service is caused directly or indirectly by the failure of the Insured to comply with the terms and conditions of any contracts the Insured has for the supply of such specified utilities or services nor as a result of the deliberate turning off of power during an industrial dispute.

The Insured will notify the suppliers of utilities or services of any interruption of such services.

- (b) Contingent Time Element: property that wholly or partially prevents any direct supplier of goods and/or services to the Insured from rendering their goods and/or services, or property that wholly or partially prevents any direct receiver of goods and/or services from the Insured from accepting the Insured's goods and/or services, such supplier or receiver to be located anywhere in the world;
- (c) Impounded Water: dams, reservoirs, or equipment connected therewith when water, used as a raw material or used for power or for other purposes, stored behind such dams or reservoirs is released from storage and causes an interruption of business as a result of lack of water supply from such sources, but not for than 30 consecutive days after the dam, reservoir, or connected equipment is rebuilt;

- (d) LEED Certification or Re-Certification: this policy is extended to cover the additional time necessary to certify or re-certify the buildings or structures following an insured loss to the applicable Leadership in Energy & Environmental Design (LEED) Rating System certifications level. Such additional time period shall include the time necessary to flush out the reconstructed space with 100% outside air and to add new filtration media to conform with the said applicable LEED certification level and;

The increased cost of buying utility services resulting from the reduction in efficiency of building components caused by an insured loss.

- (e) Leader Property: This policy, subject to all provisions and without increasing the limits of this policy, also insures against the Actual Loss Sustained, as insured by this policy resulting from physical damage to or destruction by causes of loss insured against, to:

Leader Property: property not owned or operated by the Insured, located within 25 miles of an Insured Location, which attracts business to the Insured.

It is further agreed that the length of time for which loss may be claimed unless otherwise modified or limited shall be based upon the Period of Liability described in Clause 6.H.(1)(a), as well as the Extended Period of Liability Extension described in Clause 6.H.(1)(b).

The provisions of this clause shall also extend to include the Time Element Coverage Extensions described under clauses Clause 6.G.(1)(b), Contingent Time Element, Clause 6.G.(1)(a), Service Interruption-Time Element.

- (2) Interruption by Civil or Military Authority: This policy is extended to cover the actual loss sustained during the period of time when access to real or personal property is impaired by order or action of civil or military authority issued as a direct result of physical damage to property of the type insured against under this policy to property within 5 miles of any location on schedule on file with the company, Newly Acquired Location or Miscellaneous Unnamed Location to the kind of property not excluded by this policy.
- (3) Ingress/Egress: This policy is extended to cover the actual loss sustained during the period of time when access to or egress from real

or personal property is impaired as a direct result of physical damage to property of the type insured against under this policy to property within 5 miles of any location on schedule on file with the company, Newly Acquired Location or Miscellaneous Unnamed Location to the kind of property not excluded by this policy.

Time Element meaning business interruption, extra expense, rental expense, royalties, and time element extensions described herein.

#### **H. Provisions Applicable to Business Interruption, Extra Expense, Rental Value Royalties and Soft Cost Coverages**

(1) Period of Recovery: The length of time for which loss may be claimed:

- (a) shall not exceed such length of time as would be required with the exercise of due diligence and dispatch to rebuild, repair, or replace the property that has been destroyed or damaged;
- (b) and, such additional length of time to restore the Insured's business to the condition that would have existed had no loss occurred, commencing with the later of the following dates:
  - (i) the date on which the liability of the Company for loss or damage would otherwise terminate; or
  - (ii) the date on which repair, replacement, or rebuilding of the property that has been damaged is actually completed;

but in no event for more than eighteen (18) months from said later commencement date;

- (c) with respect to alterations, additions and property while in the course of construction, erection, installation, or assembly shall be determined as provided in subparagraph (a) above, but such determined length of time shall be applied to the experience of the business after the business has reached its planned level of production or level of business operations;
- (d) shall commence with the date of such loss or damage and shall not be limited by the date of expiration of this policy or cancellation date.
- (e) for buildings that have been certified as Leadership in Energy and Environmental Design (LEED) properties, the period of liability as provided for in subparagraphs a, b and c above shall include the (additional) time necessary to recertify the building following an insured loss to the LEED certification level that existed prior to said

loss. Such (additional) time period shall include the time necessary to flush out the reconstructed space with 100% outside air and to add new filtration media to conform with the said existing LEED level.

- (2) **Special Exclusions:** This section of the policy does not insure against any increase of loss which may be occasioned by planned or scheduled shutdowns, the suspension, lapse, or cancellation of any, license, contract, or order lease (except as provided for in Leasehold Interest coverage extension); nor for any increase of loss due to interference at the Insured's premises by strikers or other persons with rebuilding, repairing, or replacing the property damaged or destroyed, or with the resumption or continuation of business, or with the reoccupancy of the premises.
- (3) **Expense to Reduce Loss:** This policy also covers such expenses incurred for the purpose of reducing any loss under this policy; such expense shall not exceed the amount by which the loss is thereby reduced.
- (4) **Resumption of Operations:** If the Insured can, by reasonable means within its control, the Insured will do all things possible to reduce the loss from interruption of business:
  - (a) by a complete or partial resumption of operation of the property insured, whether damaged or not; or,
  - (b) by making use of available stock, merchandise, or other property;such reduction shall be taken into account in arriving at the amount of loss hereunder.
- (5) **Idle Periods:** This policy does not insure against Time Element loss for any period during which the business would not have or could not have been conducted for any reason other than physical loss or damage of the type insured against.

## **I. Transit**

- (1) Property in transit within and between the territorial limits of this policy, including the coastal waters thereof, by any means of conveyance, from the time the property is moved for purpose of loading and continuously thereafter while awaiting and during loading and unloading and in temporary storage, including temporary storage on any conveyance intended for use for any outbound or used for inbound shipment, including during deviation and delay, until safely delivered and accepted into place of final destination.
- (2) This insurance is extended to cover loss or damage to property:

- (a) sold and shipped by the Insured under terms of Free On Board point of origin or other terms usually regarded as terminating the shipper's responsibility short of points of delivery;
  - (b) arising out of any unauthorized person(s) representing themselves to be the proper party(ies) to receive goods for shipment or to accept goods for delivery;
  - (c) occasioned by the acceptance by the Insured, by its agents, or by its customers of fraudulent bills of lading, shipping and delivery orders, or similar documents;
  - (d) at the Insured's option, which is incoming to the Insured.
- (3) (a) The Insured may waive right(s) of recovery against private, contract, and common carriers and accept bills of lading or receipts from carriers, bailees, warehousemen, or processors limiting their liability, but this transit insurance shall not inure to the benefit of any carrier, bailee, warehouseman, or processor.
- (b) With respect to shipments made under subparagraphs 2(a) and 2(d) above, this Company agrees to waive its rights of subrogation against consignees at the option of the Insured.
- (4) The Insured is not to be prejudiced by any agreements exempting lightermen from liability.
- (5) Seaworthiness of any vessel or watercraft and airworthiness of any aircraft are admitted between this Company and the Insured.

#### **J. Accounts Receivable**

- (1) All sums due the Insured from customers, provided the Insured is unable to effect collection thereof as the direct result of loss of or damage to records of accounts receivable;
- (2) Interest charges on any loan to offset impaired collections pending repayment of such sums made uncollectible by such loss or damage;
- (3) Collection expense in excess of normal collection cost and made necessary by such loss or damage;
- (4) Other expenses, when reasonably incurred by the Insured in reestablishing records of accounts receivable following such loss or damage.



For the purpose of this insurance, credit card company charge media shall be deemed to represent sums due the Insured from customers, until such charge media is delivered to the credit card company.

When there is proof that a loss of records of accounts receivable has occurred but the Insured cannot more accurately establish the total amount of accounts receivable outstanding as of the date of such loss, such amount shall be computed as follows:

- (1) The monthly average of accounts receivable during the last available twelve months shall be adjusted in accordance with the percentage increase or decrease in the twelve months average of monthly gross revenues which may have occurred in the interim.
- (2) The monthly amount of accounts receivable thus established shall be further adjusted in accordance with any demonstrable variance from the average for the particular month in which the loss occurred, due consideration being given to the normal fluctuations in the amount of accounts receivable within the fiscal month involved.

There shall be deducted from the total amount of accounts receivable, however established, the amount of such accounts evidenced by records not lost or damaged, or otherwise established or collected by the Insured, and an amount to allow for probable bad debts which would normally have been uncollectible by the Insured.

#### **K. Leasehold Interest**

- (1) Pro rata proportion from the date of loss to expiration date of the lease (to be paid without discount) on the Insured's interest in:
  - (a) the amount of bonus paid by the Insured for the acquisition of the lease not recoverable under the terms of the lease;
  - (b) improvements and betterments to real property which are not covered under any other section of this policy;
  - (c) the amount of advance rental paid by the Insured and not recoverable under the terms of the lease;

when property is rendered wholly or partially untenable by any covered loss during the term of this policy and the lease is canceled by the party not the Named Insured under this policy in accordance with the conditions of the lease or by statutory requirements of the appropriate jurisdiction in which the damaged or destroyed property is located; and

- (2) (a) "The Interest of the Insured as Lessee or Lessor" when property is rendered wholly or partially untenantable by any covered loss during the term of this policy and the lease is canceled by the party not the Named Insured by this policy in accordance with the conditions of the lease or by statutory requirements of the appropriate jurisdiction in which the damaged or destroyed property is located.
- (b) "The Interest of the Insured as Lessee or Lessor" as referred to herein shall be paid for the first three months succeeding the date of the loss and the "Net Lease Interest" shall be paid for the remaining months of the unexpired lease.

(3) Definitions:

The following terms, wherever used in this section shall mean:

- (a) "The Interest of the Insured as Lessee" is defined as:
    - (i) the excess of the rental value of similar premises over the actual rental payable by the lessee (including any maintenance or operating charges paid by the lessee) during the unexpired term of the lease; and
    - (ii) the rental income earned by the Insured from sublease agreements, to the extent not covered under any other section of this policy, over and above the rental expenses specified in the lease between the Insured and the lessor.
  - (b) "The Interest of the Insured as Lessor" is defined as the difference between the rents payable to the lessor under the terms of the lease in effect at the time of loss and the actual rent collectible by the lessor during the unexpired term of the lease provided the lease is canceled by the lessee, to the extent not covered under any other section of this policy.
  - (c) "Net Lease Interest" is defined as that sum, which placed at 8% interest compounded annually will be equivalent to the "The Interest of the Insured as Lessee or Lessor."
- (4) This Company shall not be liable for any increase of loss which may be occasioned by the suspension, lapse or cancellation of any license or by the Named Insured exercising any option to cancel the lease. Furthermore, the Named Insured shall use due diligence including all things reasonably practicable to diminish loss under this clause.

## **7. COVERAGE EXTENSIONS**

### **A. Demolition and Increased Cost of Construction**

In the event of direct physical loss or damage to building or structures insured under this policy that causes the enforcement of any law, ordinance, governmental directive or standard in force at the time of the loss or damage regulating the construction, repair, use, or occupancy of property, this Company shall be liable for:

- (1) the cost of demolishing the undamaged property including the cost of clearing the site;
- (2) the proportion that the value of the undamaged part of the property bore to the value of the entire property prior to loss;
- (3) increased cost of repair or reconstruction of the damaged and undamaged property on the same or another site, limited to the cost that would have been incurred in order to comply with the minimum requirements of such law or ordinance regulating the repair or reconstruction of the damaged property on the same site. However, this Company shall not be liable for any increased cost of construction loss unless the damaged property is actually rebuilt or replaced;
- (4) any increase in the business interruption, extra expense, rental value or royalties loss arising out of the additional time required to comply with said law or ordinance.

### **B. Debris Removal**

In the event of direct physical loss or damage to the property insured hereunder, this policy (subject otherwise to its terms, conditions and limitations, including but not limited to any applicable deductible) also insures debris removal, as stated in Section 2, Limit of Liability:

- (a) expenses reasonably incurred in removal of debris of the property insured hereunder destroyed or damaged from an insured location;
- (b) expenses reasonably incurred in removal of debris of the property insured hereunder which is destroyed or damaged while in transit;
- (c) expenses reasonably incurred in removal of debris of property not insured under this policy blown onto the insured location by wind or deposited onto the insured location by flood;
- (d) cost of cleanup at an insured location made necessary as a result of such direct physical loss or damage;

provided that this policy does not insure against the costs of decontamination or removal of land or water or the contaminant on or in land or water except as provided in Clause 7. O. Land and Water Contaminant or Pollutant Cleanup, Removal and Disposal.

It is a condition precedent to recovery under this extension that the Company shall have paid or agreed to pay for direct physical loss or damage to the property insured hereunder unless such payment is precluded solely by the operation of any deductible and that the Insured shall give notice to the Company of the intent to claim for the cost of removal of debris or cost of cleanup NO LATER THAN 24 MONTHS AFTER THE DATE OF SUCH PHYSICAL LOSS OR DAMAGE.

### **C. Emergency Vacating Expenses**

This policy is extended to cover the reasonable expenses incurred by the Insured when an authorized governmental agency or other similar authority orders the emergency evacuation of:

- a. Residents and tenants; or
- b. Lawful occupants;

From an insured building as a result of an immediately impending insured peril that threatens imminent physical danger or loss of life to such occupants.

No coverage is provided if the vacating results from:

- 1) A planned evacuation drill;
- 2) Evacuation of any resident or tenant because of a medical condition(s); or
- 3) A false alarm.

### **D. Tenant Relocation Expense**

This policy is extended to cover relocation expenses incurred by the Insured to relocate:

- a. Tenants; or
- b. Lawful occupants;

To other quarters in the shortest possible time when rented space at a described location are made uninhabitable as a direct result of physical loss or damage from a peril insured by this policy.

Coverage includes the reasonable and necessary expense of:

- 1) Packing, sorting, and transportation cost for personal property;
- 2) Reestablishing new utility services, less refunds from discontinued services, at the damage location;
- 3) Searching for new quarters;
- 4) Disconnecting and reconnecting fixtures and equipment; and
- 5) Storage costs while awaiting possession of other quarters or restoration of existing quarters.

No coverage is provided for:

- a) Loss caused by the termination of a lease or other agreement;
- b) Security deposits or other payments made to the landlord or lessors of the new quarters; or
- c) Down payments, legal fees and closing costs for the purchase of new quarters.

#### **E. Locks & Keys**

This policy is extended to cover the reasonable and necessary expense incurred by the insured for replacing:

- a. Locks; and
- b. Keys;

Resulting from insured physical loss or damage.

Coverage includes the actual cost to:

- 1) Replace;
- 2) Adjust; or
- 3) Reprogram;

Locks to accept new keys or entry codes.

#### **F. Arson Reward**

This policy is extended to cover payment of any reward offered on the Insured's behalf for information that leads to conviction of the perpetrator(s) of:

a. Arson (fire); and

b. Vandalism;

To insured property that sustains physical loss or damage insured by this policy.

The company's total liability for any one occurrence will not exceed the Limit of liability shown in the declarations. The company's payment of this reward will not increase regardless of the number of informants providing information that leads to a conviction.

#### **G. Expediting Expense**

This policy covers the reasonable extra cost of temporary repair and/or replacement and of expediting the repair and/or replacement of damaged property insured hereunder, including, but not limited to, overtime and express freight or other rapid means of transportation.

#### **H. Loss Adjustment Expenses**

This policy is extended to include expenses incurred by the Insured, or by the Insured's representatives for preparing and certifying details of a claim resulting from a loss which would be payable under this policy. However, this Company shall not be liable under this clause for expenses incurred by the Insured in utilizing the services of a public adjuster or attorney.

This policy is extended to include reasonable fees charged by the Property Manager for handling the claim. However, this Company shall not be liable under this Clause for more than the amount shown in Section 2, Limit of Liability.

#### **I. Fire Brigade Charges and Extinguishing Expenses**

This policy covers the following expenses resulting from a covered loss:

- (1) fire brigade charges and any extinguishing expenses which the Insured incurs;
- (2) loss and disposal of fire extinguishing materials expended.

#### **J. Defense Costs**

This policy, subject to all of its provisions, also insures the costs and fees to defend any claim or suit against the Insured and/or its directors, officers and/or employees alleging physical loss or damage as insured against to property of others in the care, custody or control of the Insured to the extent of the Insured's liability therefore, even if such claim or suit is groundless, false or

fraudulent; but the Company may without prejudice make such investigation, negotiation or settlement of any such claim or suit as it deems expedient.

#### **K. Consequential Loss**

- (1) In the event of loss or damage not otherwise excluded to property, and such damage, without the intervention of any other independent excluded cause, results in a sequence of events which causes physical damage to insured property, then there shall be liability under the policy for the resulting loss.
- (2) This policy also insures against consequential loss to the property insured caused by but not limited to change of temperature or humidity or by interruption of power, heat, air conditioning, or refrigeration resulting from loss or damage not otherwise excluded.
- (3) This policy also insures the reduction in value to the remaining part or parts of any lot of merchandise usually sold by lots or sizes, color ranges, or other classifications due to damage to or destruction of a part of such lots or other classifications due to a cause of loss not otherwise excluded.

#### **L. Warranties**

For property where special provisions that are in effect to maintain a warranty; e.g. a roof or elevator is damaged due to a covered peril: In order to keep the manufacturer's or contractor's warranty in place, consideration will be given to the manufacturer's or contractors permitted to do the repairs. Insured undertakes to keep evidence and records of work undertaken to enable loss adjustment process.

#### **M. Errors and Omissions:**

If physical loss or damage is not payable under this Policy solely due to an error or unintentional omission:

- 1) in the description of where the insured property is physically located;
- 2) to include any location:
  - a) owned, rented or leased by the Insured on the effective date of this Policy; or,
  - b) purchased, rented or leased by the Insured during the term of this policy; or
  - c) that result in cancellation of the of the property insured under this Policy;

this Policy covers such physical loss or damage, to the extent that it would have provided coverage had such error or unintentional omission not been

made.

#### **N. Land and Water Contaminant or Pollution Cleanup, Removal & Disposal**

This policy covers the reasonable and necessary cost for cleanup, removal, and disposal of contaminants or pollutants from uninsured property consisting of land water and any other substance in or on land at a location insured under this policy if the release, discharge or dispersal of contaminants or pollutants is a direct result of insured physical loss or damage to insured property.

This policy does not cover the cost to cleanup, remove and dispose of contaminants or pollutants from such property:

- (1) at any location insured for personal property only
- (2) when the insured fails to give written notice of loss to the company within 12 months after inception of the loss.

#### **8. PERILS INSURED AGAINST**

This policy insures against all risk of direct physical loss of or damage to property described herein including general average, salvage and all other charges on shipments covered hereunder, except as hereinafter excluded.

#### **9. PERILS EXCLUDED**

This policy does not insure:

- A. any dishonest act, including but not limited to theft committed alone or in collusion with others at any time:
  - i) by an Insured or any proprietor, partner, director, trustee, officer, or employee of and an Insured;
  - ii) by any proprietor, partner, director, trustee, or officer of any business entity (other than common carrier) engaged by the Insured to do anything in connection with the property insured under this policy.

This policy does insure acts of physical loss or damage intentionally caused by an employee of an Insured or any individual specified in section b above, and done without the knowledge of the Insured. In no event does this policy cover loss by theft by any individual specified in section a or b above

- B. against the cost of making good, defective design or specifications, faulty material, or faulty workmanship; however, this exclusion shall not apply to loss or damage resulting from such defective design or specifications, faulty material, or faulty workmanship;



- C. against errors in processing or manufacture of the Insured's product unless loss or damage not otherwise excluded ensues and then this policy shall cover for such ensuing loss or damage;
- D. against wear and tear, or deterioration unless loss or damage not otherwise excluded ensues and then this policy shall cover for such ensuing loss or damage;
- E. against settling or shrinkage of walls, floors, foundations, or ceilings unless loss or damage not otherwise excluded ensues and then this policy shall cover for such ensuing loss or damage;
- F. against nuclear reaction, or nuclear radiation, or radioactive contamination, all whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate or remote; except:
  - (1) if fire ensues, liability is specifically assumed for direct loss by such ensuing fire but not including any loss due to nuclear reaction, nuclear radiation, or radioactive contamination;
  - (2) this Company shall be liable for loss or damage caused by sudden and accidental radioactive contamination including resultant radiation damage for each occurrence from material used or stored or from processes conducted on an insured premises provided at the time of loss there is neither a nuclear reactor capable of sustaining a nuclear fission in a self-supporting chain reaction nor any new or used nuclear fuel on the insured premises;
- G.
  - (1) against 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;
    - (b) or by military, naval, or air forces;
    - (c) or by an agent of any such government, power, authority, or forces;
  - (2) against any weapon employing atomic fission or fusion;
  - (3) against rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating, or defending against such occurrence;
  - (4) against seizure or destruction by order of public authority, except destruction by order of public authority to prevent the spread of, or to

otherwise contain, control or minimize loss, damage or destruction not otherwise excluded under this policy;

(5) against risks of contraband or illegal trade.

- H. against insect animal or vermin damage unless loss or damage not otherwise excluded ensues and then this policy shall cover for such ensuing loss or damage
- I. indirect or remote loss or damage;
- J. delay or loss of market;
- K. unexplained or mysterious disappearance;
- L. loss resulting from the voluntary parting with title or possession of property if induced by any fraudulent act or by false pretense

## **10. PROPERTY EXCLUDED**

This policy does not cover loss or damage to:

- A. Land; however, this exclusion shall not apply to the cost of reclaiming, restoring or repairing land improvements. Land improvements are defined as any alteration to the natural condition of the land by grading, landscaping, drainage, earthen dikes or dams, retaining walls, including tees, greens, bunkers and golf course improvements, and additions to land such as pavements, roadways, drainage or similar works;
- B. Water, except water which is normally contained within any type of tank, piping system or other process equipment;
- C. Money and securities;
- D. Growing crops, standing timber, and animals except for research;
- E. Watercraft, aircraft, motor vehicles licensed for highway use, but this exclusion shall not apply to contractor's equipment;
- F. Waterborne shipments via the Panama Canal, and to and from Puerto Rico, the Virgin Islands, Hawaii, and Alaska;
- G. Export shipments after loading on board an overseas vessel or watercraft or after ocean marine insurance attaches, whichever occurs first; and import shipments prior to discharge from the overseas vessel or watercraft or until the ocean marine insurance terminates, whichever occurs last.

- H. Dams, dikes, bulkheads, reservoirs, pilings, piers, wharves, docks, and canals when not a structural part of a building.
- I. Tunnels and bridges used for vehicular traffic , however, this exclusion shall not apply to Time Element Loss as provided under Section 6. Coverage, G. Time Element Extensions, 1. (c), (e), 2 and 3.
- J. Off shore property including drilling rigs, underground mines, spacecraft, and satellites.

## **11. VALUATION**

In case of loss, the basis of adjustment shall be as follows:

### **A. Stock**

- (1) Raw Stock (materials and supplies in the state in which the Insured received them for conversion by the Insured into finished stock, including supplies consumed in such conversion or in the service rendered by the Insured) shall be valued at replacement cost at the time and place of loss.
- (2) Stock in process (raw stock which has undergone any aging, seasoning, or other processing by the Insured but which has not become finished stock) shall be valued at the Insured's selling price of finished stock at the time of loss, less any manufacturing expense not incurred by the Insured and less any discounts, rebates, and unincurred expenses to which the sales price would have been subject.
- (3) Finished stock (stock which in the ordinary course of the Insured's business is ready for packing, shipment or sale) and merchandise shall be valued at the Insured's selling price at the time of loss, less all discounts, rebates, and unincurred expenses to which such sales price would have been subject.

### **B. Real and Personal Property**

- (1) Buildings, structures, furniture and fixtures, machinery, equipment, improvements and betterments, shall be valued the cost to repair or replacement cost new, whichever is less on the same premises, as of the date of replacement.
- (2) Electronic Data Processing or control equipment and production machinery and equipment or any part thereof shall be valued at the cost to repair or replace new on the same premises as of the time of replacement except, that with respect to items for which replacement

with identical property is impossible, the replacement cost shall be the cost of items similar to the destroyed property and intended to perform the same function but which may include technological advances.

- (3) Valuable papers and records shall be valued at the cost to reproduce the property as of the date of reproduction including the cost of gathering and/or assembling information;

"Valuable papers and records" are defined as written, printed, or otherwise inscribed documents and records, including but not limited to books, maps, films, drawings, abstracts, deeds, mortgages, micro-inscribed documents, manuscripts, and media and the data recorded thereon, but not including money and/or securities.

"Media" is defined as materials upon which data is recorded including, but not limited to, papertapes, cards, electronic memory circuits, and magnetic or optical storage devices. "Data" is defined as facts, concepts, or instructions in a form usable for communications, interpretation, or processing by automatic means. It includes computer programs.

The term "securities" shall mean all negotiable and non-negotiable instruments or contracts representing either money or other property, and includes revenue and other stamps in current use, tokens and tickets but does not include money.

- (4) Property of others which the Insured is required to insure to a stipulated value shall be valued at the replacement cost new as of the date of replacement, if replaced at the Insured's option; otherwise at the stipulated value.
- (5) Fine Arts shall be valued at the appraised value; or, if there is no appraisal, at the greater of the original acquisition cost or the market value at the time of the loss.
- (6) Other property not otherwise provided for, the cost to repair or replacement cost new, whichever is less on the same premises as of the date of replacement.
- (7) For property that qualifies as Historic Landmark status, the Insured shall have sole discretion as to the means by which said property shall be repaired, rebuilt, or replaced and shall include the cost to repair or replace with material of like kind and quality compatible to those originally used including the cost of skilled labor and/or authentic materials necessary to restore the property as nearly as possible to its original condition, but not to exceed the actual costs that would have been incurred in order to comply with Historical Landmark status requirements.

- (8) Permission is granted for the Insured to replace the damaged property with any property at the same site or at another site within the territorial limits of this policy, but recovery is limited to what it would cost to replace on same site. If property damaged or destroyed is not repaired, rebuilt or replaced within a reasonable period (being not more than 36 months) after the loss or damage, this Company shall not be liable for more than the actual cash value at the time of loss (ascertained with proper deduction for depreciation) of the property damaged or destroyed. However, limitations imposed by federal, state or municipal building codes shall not result in actual cash valuation.
- (9) Replacement cost shall include the reasonable and necessary architect's and/or engineers' plans, drawings, blueprints, photographs, specifications and their related fees, including inspectors' and/or superintendents' fees, inspection and/or supervisory charges; and to include architects' and engineers' fees for supervision of construction and repair of insured damage.
- (10) For buildings insured under this policy that have been certified as Leadership in Energy and Environmental Design (LEED) properties, in addition to the adjustment of the direct physical loss amount(s) described under this Clause 11.B.(10), this Company shall also be liable for:
- (1) With respect to buildings that have not qualified for any LEED certification prior to the loss or damage, Replacement Cost includes the reasonable and necessary expense to repair or replace damaged buildings using materials and methods required to qualify for LEED Silver certification using the applicable LEED Rating System.
  - (2) With respect to buildings that have qualified for any LEED certification prior to the loss or damage, Replacement Cost includes the reasonable and necessary expense to restore the building to the level of LEED certification assigned to the building prior to the loss. This includes any changes in the requirements made after the certification was first obtained. The number of credits assigned to the building or structures using the applicable LEED Rating System after recertification may not be less than number of credits assigned to the building or structures prior to the loss.

Replacement Cost also includes:

- a. the additional costs and fees required by the LEED Rating System to certify or re-certify the building following an insured loss.
- b. The reasonable and necessary expense to hire LEED-Accredited architects, engineers or design professionals to assist in the design, construction or reconstruction and repair of the damaged property;
- c. the cost to flush out the reconstructed space with 100% outside air and to add new filtration media to conform with the applicable LEED requirement.

- d. the necessary and reasonable costs to hire commissioning agents as required by the LEED rating system to provide building commissioning or re-commissioning services and to oversee post loss repair or reconstruction in order to verify and document that the repaired or replaced property, as well as other property including but not limited to life safety systems, health safety systems, HVAC, plumbing and electrical systems and their related controls whether damaged or not in the loss occurrence have been installed and calibrated properly and perform to documented design criteria and manufacturers' specifications.
- e. the cost of replacing appliances and office equipment with products of like kind and quality that have been identified as "ENERGY STAR ®" or the equivalent, if available.
- f. the cost of replacing interior furnishings with products of like kind and quality that are certified as GREENGUARD Indoor Air Quality Certified ® or products with similar emissions characteristics, if available.
- g. the cost of replacing interior plumbing fixtures including, but not limited to toilets, shower heads, and lavatory faucets with products of like kind and quality that are more water efficient, if available.
- h. the cost of replacing heating and cooling equipment with products of like kind and quality that have been identified as "ENERGY STAR" or equivalent products of such energy efficiency, if available.
- i. the cost to conduct air testing and building flush-out (if required because of a failure to meet air quality standards set forth in the Construction IAQ) and follow-up air testing.

## **12. EARTHQUAKE, FLOOD AND NAMED WINDSTORM**

- A. Each loss by Earthquake, Flood or Named Windstorm shall constitute a single occurrence hereunder if:
  - (1) more than one Earthquake shock occurs within any period of 168 hours during the term of this policy, the beginning of which 168 hour period may be determined by the Insured; or
  - (2) any Flood occurs within a period of the continued rising or overflow of any river(s) or stream(s) and the subsidence of same within the banks of such river(s) or stream(s); or
  - (3) any Flood results from any tidal wave or series of tidal waves caused by any one disturbance.
  - (4) more than one Named Windstorm landfall occurs within any period of 168 hours during the term of this policy, the beginning of which 168 hour period may be determined by the Insured

- B. Should any time period referred to in Clause A. above commence prior to expiration or cancellation date of this policy, this Company shall pay all such Earthquake, Flood or Named Windstorm losses occurring during such period as if such period fell entirely within the term of this policy.
- C. This Company shall not be liable, however, for any loss caused by any Earthquake, Flood or Named Windstorm commencing before the effective date and time or commencing after the expiration date and time of this policy.
- D. 1. Earthquake means any natural or man made earth movement including but not limited to earthquake or landslide, regardless of any other cause or event contributing concurrently or in any sequence of loss. Even if the peril of Earthquake is the predominant cause of loss or damage, any ensuing loss or damage not otherwise excluded herein shall not be subject to any sublimits or aggregates.
2. Flood means flood; rising waters; waves including tsunami; tide or tidal water; storm surge and the release of water. The rising, overflowing or breaking of boundaries of natural or man-made bodies of water; or the spray therefrom; regardless of any other cause or event contributing concurrently or in any other sequence of loss. Even if the peril of Flood is the predominant cause of loss or damage, any ensuing loss or damage not otherwise excluded herein shall not be subject to any sublimits or aggregates.
3. Named Windstorm shall mean the direct action of wind when such wind is associated with, or occurs in conjunction with a storm or weather disturbance which is named (tropical storm or higher) by the U.S. National Weather Service.

Even if the peril of Named Windstorm is the predominant cause of loss or damage, any ensuing loss or damage not otherwise excluded herein shall not be subject to any sublimits or aggregates.

### **13. OCCURRENCE**

Except as respects Earthquake and Flood, the term occurrence means any insured loss or several insured losses arising directly from one common cause, event or catastrophe not otherwise excluded by this policy and during the period of this insurance policy.

If such loss or several losses are attributable to several causes in an unbroken chain of causation, the cause that triggers the chain of causation is understood to be the common cause, event or catastrophe.

All such losses shall be added up and the result shall be treated as one occurrence irrespective of the period of time or area within which such losses occur.



In case of uncertainty over scientific issues, the parties agree to seek expert advice from a neutral and recognized organization.

#### **14. CONTRIBUTING INSURANCE**

Contributing insurance is insurance written upon the same plan, terms, conditions, and provisions as those contained in this policy. This insurance shall contribute in accordance with the conditions of this policy only with other contributing insurance as defined.

#### **15. EXCESS INSURANCE / DROP DOWN / PRIORITY OF PAYMENTS**

- A. Coverage hereunder shall not apply until the amount of loss, damage or expense arising out of any one occurrence exceeds

See Participation Page

plus the applicable portion of the primary policy deductible and any waiting period attributable to the perils and/or property and/or coverages insured hereunder.

The amount of the applicable portion of the primary policy deductible referred to above shall be determined by the proportion that the amount of loss attributable to the perils and/or property and/or coverages insured against under this policy (without application of the excess provision) bears to the total amount of loss multiplied by the amount of the applicable primary deductibles.

In the event that the total amount of loss, damage, or expense attributable to the perils and/or property and/or coverage insured under the underlying insurance exceeds that amount at which this policy would normally attach, but due to the application of sublimits in the underlying policy(ies), the total loss, damage and expense payable by the underlying policy(ies) does not fully exhaust the underlying policy(ies) limit, then this policy shall drop down and be liable for the loss as covered under this policy in excess of the amount paid by the underlying policy(ies).

As respects theft, the term Occurrence as referred to elsewhere within the policy means the sum total of all losses of covered property resulting from one or more concealed acts committed by one person or more than one person acting in unison to the extent such loss is not otherwise excluded under this policy.

- B. In determining the amount of any loss, damage, or expense for which this policy is excess, the total loss for all coverages caused by any combination of perils, one or more of which is insured against under the primary policy, shall be used even though all such perils or coverages are not insured against under this excess policy.

- (1) Any recoveries made under the primary policy shall be considered as first



applying to those perils and/or property and/or coverages not insured against by this policy. Upon exhaustion of the primary policy limits, this policy shall drop down and be liable for the loss in excess of the amount attributable to the primary policy as respects those perils and/or coverages and/or property insured hereunder subject to the limit of this policy.

- (2) If there is any other excess insurance covering the perils and/or property and/or coverages insured against in the primary policy, but not covered by this policy, this insurance shall then allocate any loss recoveries made under the primary policy in the same proportion as the amount of loss involving the property and/or coverages insured against by this policy bears to the combined total loss. Upon exhaustion of the primary policy limits, this policy shall drop down and be liable for the loss in excess of the amount attributed to the primary policy as respects those perils and/or property and/or coverages covered hereunder subject to the limit of this policy.
  - (3) Paragraph two shall not apply, however, when the amount of loss attributed to the perils insured under the primary policy, but not covered under this policy, exceed the total amount of insurance provided by the primary and excess coverages with respect to said perils. In this situation any recoveries made under the primary policy shall first apply to those perils not insured against by this policy. Upon exhaustion of the primary policy limits, this policy shall drop down and be liable for the loss in excess of the amount attributed to the primary policy as respects those perils covered hereunder subject to the limit of this policy.
  - (4) In the event the Insured is a contributing or self-insurer with respect to the perils and/or property and/or coverages otherwise insured in any underlying insurance and no policy is issued to define the extent of this contributing or self insurance, for the purposes of this Excess Clause, the Insured's contributing or self-insurance shall be deemed to be the same as either: (a) all other contributing insurance participating in the Insured's layer(s); or (b) all other contributing insurance participating in the layer below the Insured's layer where the Insured is entirely self insuring the layer. If the coverage provided by the policy(s) of the other contributing insurance company(s) is non-concurrent, then the contributing or self insurance provided by the Insured within the layer in question shall be deemed to be the same as the coverage provided by that contributing insurance company whose policy provides the least indemnity for the loss.
- C. In the event the aggregate limits provided for flood and/or earthquake in any underlying insurance are diminished or exhausted in any one policy term, the coverage provided under this policy shall respond as excess of the remaining limits.

In such event, the applicable amount of the deductible provision of the primary policy shall apply to the combination of all policies.

Where applicable relative to contributing insurance policy(s) described in either subparagraphs B(4)(a) or B(4)(b) above, in the event the Insured is providing contributing or self-insurance in any of the layer(s) of insurance, and such other contributing insurance policies contain aggregate limits of liability, the Insured's contributing or self insurance for those coverages shall be deemed to be aggregated also.

#### **16. UNDERLYING INSURANCE**

- A. Underlying insurance is insurance on all or any part of the deductible and against all or any of the causes of loss covered by this policy including declarations of value to the carrier for hire. The existence of such underlying insurance shall not prejudice or affect any recovery otherwise payable under this policy.
- B. If the limits of such underlying insurance exceed the deductible amount which would apply in the event of loss under this policy, then that portion which exceeds such a deductible amount shall be considered other insurance, as defined in the Other Insurance clause.
- C. Recoveries made through FEMA, or any other governmental agency will be considered Underlying Insurance.

#### **17. OTHER INSURANCE**

Except for insurance described by the contributing insurance clause, the excess insurance clause, or the underlying insurance clause, this policy shall not cover to the extent of any other insurance, whether directly or indirectly covering the same property against the same causes of loss. This Company shall be liable for loss or damage only to the extent of that amount in excess of the amount recoverable from such other insurance.

#### **18. SUBROGATION**

- A. Any release from liability expressly waived by the Insured prior to loss hereunder shall not affect this policy or the right of the Insured to recover hereunder. The right of subrogation against the Insured, affiliated, subsidiary, and associated companies or corporations, the Insured's officers, directors, and employees, or any other corporations or companies associated with the Insured through ownership or management, and at the option of the Insured against a tenant, vendor, supplier or customer of the Insured, is waived.
- B. In the event of any payment under this policy, this Company shall be subrogated to the extent of such payment to all the Insured's rights of recovery therefore. The Insured shall execute all papers required and shall do anything that may be reasonably necessary at the expense of the Company to secure

such right. The Company will act in concert with all other interests concerned, i.e., the Insured and any other Company(ies) participating in the payment of any loss as primary or excess insurers, in the exercise of such rights of recovery.

If any amount is recovered as a result of such proceedings, the net amount recovered after deducting the cost of recovery shall be divided between the interests concerned in the proportion of their respective interests. If there should be no recovery, the expense of proceedings shall be borne by the insurers instituting the proceedings.

#### **19. SALVAGE AND RECOVERIES**

All salvages, recoveries and payments, excluding proceeds from subrogation and underlying insurance, recovered or received prior to a loss settlement under this policy, shall reduce the loss accordingly. If recovered or received subsequent to a loss settlement under this policy, such net amounts recovered shall be divided between the interests concerned, i.e. the Insured and any other Company(ies) participating in the payment of any loss, in the proportion of their respective interests.

#### **20. MACHINERY**

In case of loss or damage insured against to any part of a machine or unit consisting of two or more parts when complete for use, the liability of the Company shall be limited to the value of the part or parts lost or damaged or, at the Insured's option, to the cost and expense of replacing or duplicating the lost or damaged part or parts or of repairing the machine or unit.

#### **21. NOTICE OF LOSS**

As soon as practicable after any loss or damage occurring under this policy is known to the Insured's Home Office Insurance Department, the Insured shall report such loss or damage to Willis of New York, 200 Liberty Street, New York, NY 10281, for transmission to this Company. Any delay by the Insured in providing notice shall not affect the Insured's right to coverage under this policy, except if and to the extent that the Company proves that it actually and substantially was prejudiced by any unreasonable delay in notice.

#### **22. PROOF OF LOSS**

The Insured, at the request of the Company, will render a signed and sworn proof of loss to the Company or its appointed representative stating: the place, time, cause of the loss, damage, or expense; the interest of the Insured and of all others; the value of the property involved in the loss; and the amount of loss, damage, or expense.

#### **23. PARTIAL PAYMENT OF LOSS**

In the event of a loss covered by this policy, it is understood and agreed that the Company will issue partial payment(s) of claim subject to the policy provisions, and shall not be less than the undisputed estimate of loss or damage between the Insured and the Company;

**24. ASSIGNED ADJUSTER**

It is agreed that the Companies will use:

Stuart A. Mintz  
Custard Insurance Adjusters, Inc.  
4875 Avalon Ridge Parkway  
Norcross, GA., 30071

for the adjustment of all claims made against this policy. This assignment may be changed by mutual consent of the Insured and the Company.

**25. APPRAISAL**

If the Insured and this Company fail to agree on the amount of the loss, each, upon written demand of either the Insured or this Company made within 60 days after receipt of proof of loss by the Company, shall select a competent and disinterested appraiser. The appraisers shall then select a competent and disinterested umpire. If they should fail for 15 days to agree upon such umpire, then upon the request of the Insured or of this 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. Then, at a reasonable time and place, the appraisers shall appraise the loss, stating separately the value at the time of loss and the amount of loss. If the appraisers fail to agree, they shall submit their differences to the umpire. An award in writing by any two shall determine the amount of loss and shall be paid by the Company within 30 days thereafter. The Insured and this Company shall each pay his or its chosen appraiser and shall bear equally the other expenses of the appraisal and of the umpire.

**26. PAIR AND SET**

Except as provided under the Machinery clause and paragraph (3) of the Consequential Loss clause, in the event of loss or damage insured against to any article or articles which are a part of a pair or set, the measure of loss or damage to such article or articles shall be, at the Insured's option:

- A. the reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article or articles, but in no event shall such loss or damage be construed to mean total loss of the pair or set; or
- B. the full value of the pair or set provided that the Insured surrenders the remaining article or articles of the pair or set to the Company.

**27. ASSISTANCE AND COOPERATION OF THE INSURED**

The Insured shall reasonably cooperate with this Company, and, at this Company's reasonable request and expense, shall attend hearings and trials and shall assist in effecting settlements, in securing and giving evidence, in obtaining the attendance of witnesses and in conducting suits.

**28. SUE AND LABOR**

In case of actual or imminent loss or damage covered by this policy, it shall, without prejudice to this insurance, be lawful and necessary for the Insured, their factors, servants, or assigns to sue, labor and travel for, in and about the defense, the safeguard, and the recovery of property or any part of the property insured hereunder; nor, in the event of loss or damage, shall the acts of the Insured or of this Company in recovering, saving, and preserving the insured property be considered a waiver or an acceptance of abandonment. This Company shall pay the expenses so incurred.

**29. PAYMENT OF LOSS**

All adjusted claims shall be due and payable no later than 30 days after presentation and acceptance of proofs of loss by this Company or its appointed representative.

**30. REINSTATEMENT**

With the exception of loss caused by perils which are subject to annual aggregate limits as noted in Section 2, no loss hereunder shall reduce the amount of this policy.

**31. SUIT AGAINST THE COMPANY**

No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless the Insured shall have fully complied with all the requirements of this policy; however, if there is any dispute between the Insured and the Company as to whether the Insured has fully complied with all the requirements of this policy, such a dispute may be resolved in a suit or action on the policy for recovery of any claim. The Company agrees that any action or proceedings against it for recovery of any loss under this policy shall not be barred if commenced within two years and one day after the Insured provides notice to the Company in accordance with clause 21 above, which period shall be tolled from the date of notice until the date that the Insured receives the Company's final coverage decision (this two year and one day period is referred to as the "limitations period"). However, the limitations period shall not apply if by the laws of the State of the address of the Insured such a limitation is invalid or if the laws of the state in which any such action is brought permit a longer period of time within which to commence such a suit. Furthermore, any tolling of the limitations period shall not preclude the Insured from bringing a suit or any other proceeding regarding recovery for any loss or of any claim hereunder during the period of tolling or at any other time.

It is agreed that in the event of the failure of the Company to pay any amount claimed to be due hereunder or in the event of any other dispute relating to this policy, the Company, at the request of the Insured, will submit to the jurisdiction of any court of competent jurisdiction within the United States and will comply with all of the requirements necessary to give such court jurisdiction and all matters hereunder shall be determined in accordance with the law and practice of such court, not including the court's law regarding choice of law.

### **32. CERTIFICATES OF INSURANCE**

Any certificate of insurance issued in connection with this policy shall be issued solely as a matter of convenience or information for the addressee(s) or holder(s) of said certificate of insurance, except where any Additional Insured(s) are named pursuant to the Special Provisions of said certificate of insurance. In the event any Additional Insured(s) or are so named, this policy shall be deemed to have been endorsed accordingly, subject to all other terms, conditions and exclusions stated herein.

The Company hereby authorizes Willis of New York to issue certificates of insurance for Mortgagees, Loss Payees and similar interests.

### **33. CANCELLATION**

- A. This policy may be canceled at any time at the request of the Insured or it may be canceled by the Company by mailing to the Insured at:

Fontainebleau Miami, JV, LLC  
c/o John Garland  
4441 Collins Avenue  
Miami Beach, FL 33140

and to the additional named insureds / loss payees indicated on the certificates of insurance issued during the term of this policy, written notice stating when, not less than 90 days thereafter, such cancellation shall be effective. The earned premium shall be computed on a pro-rata basis.

- B. The mailing of notice as aforesaid shall be sufficient proof of notice and the effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the Insured or by the Company shall be equivalent to mailing.
- C. Cancellation shall not affect coverage on any shipment in transit on the date of cancellation. Coverage will continue in full force until such property is safely delivered and accepted at place of final destination.
- D. In the event of non-payment of premium this policy may be canceled by the Company by mailing to the Insured at the address shown in A. above stating when, not less than 10 days thereafter, such cancellation shall be effective.

**34. TITLES OF PARAGRAPHS**

The titles of paragraphs of this form and of endorsements and supplemental contracts, if any, now or hereafter attached hereto are inserted solely for convenience of reference and shall not be deemed in any way to limit or affect the provisions to which they relate.

**35. CONFORMANCE**

The terms of this policy which are in conflict with the applicable statutes of the state wherein this policy is issued are hereby amended to conform to such statutes, unless the statutes narrow or limit the coverage afforded by this policy and do not bar a policy from providing broader coverage.

**36. PERMISSION TO INSPECT**

This company will be permitted, but not have the duty, to inspect insured property.

**37. ABANDONMENT**

There may be no abandonment of property to the company.

**38. BANKRUPTCY AND INSOLVENCY**

In the event of the insolvency or the bankruptcy of any Insured, the Company will continue to insure the representatives, successors or assigns of such Insured. The insolvency or bankruptcy of the Insured does not relieve the Company of liability as provided under this policy.

**39. COINSURANCE WAIVER**

This policy is not subject to coinsurance.

**40. VACANCY OR UNOCCUPANCY**

Permission is granted to cease operations or remain vacant and/or unoccupied without limit of time, and such vacancy and/or unoccupancy shall not affect the insurance provided under this policy.

**41. LIBERALIZATION**

If, during the period that insurance is in force under this policy, any authorized endorsement or filed rules or regulations affecting the same are revised by statute so as to broaden the insurance without additional premium charge, such extended or broadened insurance shall insure to the benefit of the Insured hereunder.

**42. NO CONTROL**



This insurance shall not be affected by failure of the Insured to comply with any provisions of this policy in any portion of the premises over which the Insured has no control.

**43. STANDARD MORTGAGEE CLAUSE**

Loss, if any, under this policy, shall be payable as first mortgagee, as interest may appear, under all present or future mortgagees upon the property herein described in which the aforesaid may have an interest as mortgagee(or trustee), in order of precedence of said mortgagees, 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 the Companies 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. The Company reserves the right to cancel this policy at any time provided by its terms. Companies will provide notice of cancellation of or material change in coverage to mortgagee (or trustee) at least 30 days prior to such cancellation or material change and in any case this policy shall continue in force for the benefit only of the mortgagee (or trustee) for 90 days after notice to the mortgagee (or trustee) of such cancellation and shall then cease and the Companies shall have the right, on like notice, to cancel this agreement. Whenever the Companies 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, the Companies shall, to the extent of such payment, be thereupon legally subrogated to all 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 its claim against the mortgagor(or owner).



## Appendix A

Fontainebleau Miami, JV LLC  
Fontainebleau Miami Mezzanine B Borrower, LLC  
Miami Mezzanine Borrower, LLC  
Fontainebleau Florida Tower 2, LLC  
Fontainebleau Florida Tower 3, LLC  
Fontainebleau Tower 3 Garage Restaurant, LLC  
Fontainebleau Florida Hotel, LLC  
Fontainebleau II Condominium Association, Inc.  
Fontainebleau III Condominium Association, Inc.  
Miami Investment Associates, LLC  
Fontainebleau Miami JV Member LLC  
FIVW Acquisition LLC

Amnesia International, LLC  
Turnberry Beach Road LLC  
Fontainebleau Construction LLC f/k/a Turnberry Construction LLC  
Beverly Street Hotel 1B LLC  
TB Beverly Street Manager LLC  
Cabi Turnberry Aventura Offices, L.P  
CCC TS Tenant LLC  
TB Isle Resort LP  
TB Spa Building Condominium Association, Inc.  
Beach Club Acquisition, LLC  
YCM Acquisition LLC  
Fontainebleau Development LLC

## **Policy Change Endorsement 1 – Computer Virus Exclusion**

The following provisions are hereby attached to and made part of this Policy:

Notwithstanding any provisions to the contrary within this policy or any endorsements attached thereto, it is agreed as follows:

This policy does not insure any loss of, damage to, destruction, distortion, interruption, erasure, corruption or alteration, of Electronic Data caused by computer Virus, nor any resulting business interruption or other time element loss. In the event that the Computer Virus causes an ensuing loss of or direct damage to insured property, then this policy, subject to all of the terms, conditions and exclusions, shall cover such resulting damage.

Electronic Data means facts, concepts, code or any other information converted to a form useable for communication, interpretation or processing by computers or other electronic or electromechanical data processing or electronically controlled equipment, and includes programs, software, and other coded instructions for the processing or manipulation of other data or the direction and manipulation of any equipment.

Computer Virus means any corrupting, harmful, or otherwise disruptive instructions or code including any unauthorized instruction code, programmatic or otherwise, that propagate through any computer or computer system(s), network(s), or groups of whatsoever nature. Computer Virus includes but is not limited to : “Trojan Horses”, “worms” and “time or logic bombs”.

All other terms and conditions remain unchanged.

## **Policy Change Endorsement 2 – Electronic Date Recognition Exclusion**

The following provisions are hereby attached to and made part of this Policy: The following identified causes of loss and, except as expressly provided in the individual sections below, any damage (including but not limited to damage and contingent damage) and business interruption arising directly or indirectly therefrom are not insured, regardless whether any other cause or event contributed concurrently or in any other sequence:

1. Any loss, Damage, cost, claim, expense, or other sum directly or indirectly arising out of or relating to Date Processing. This exclusion applies regardless of the form, ownership or location of property.
2. If circumstances excluded in Paragraph 1. directly produce an Insured Cause of Loss, then the policy shall cover the ensuing Damage to Insured Property and Time Element loss that directly results therefrom. All claims qualifying for coverage under this paragraph are part of the same occurrence, and all payments therefore are subject to a single aggregate occurrence limit.
3. Under no circumstance (including those in Paragraph 2) shall this policy cover any cost, expense or other sum, whether preventative, remedial, or otherwise, to examine, repair, replace, upgrade, alter, or otherwise assess or correct Date Processing.

All other terms and conditions remain unchanged.

**Policy Change Endorsement 3 – Chemical, Biological & Radiological Exposures  
Exclusion**

The following provisions are hereby attached to and made part of this Policy:

A. This policy does not insure against any loss or damage, cost or caused by or resulting from any of the following, regardless of any other cause or event contributing concurrently or in any other sequence thereto:

- (1) The unlawful possession, use, release, discharge, dispersal or disposal of any chemical, bacteriological, viral, radioactive, or similar agents or mater regardless of who is responsible for the act and whether war has been declared or not, and regardless of any other cause or event contributing concurrently or in any other sequence thereto.
- (2) The unlawful possession, use, release, discharge, dispersal or disposal of any device or material capable of producing a nuclear reaction or spread of radioactivity, regardless of who is responsible for the act and whether war has been declared or not, and regardless of any other cause or event contributing concurrently or in any other sequence thereto.

B. In any action or suit or other proceeding where the company alleges that, by reason of either of the provisions above, some or all loss or damage is not insured by this policy, the burden of proving that such loss or damage is not excluded shall be upon the Insured.

All other terms and conditions remain unchanged.

## **Policy Change Endorsement 4 – Authorities Endorsement**

The following provisions are hereby attached to and made part of this Policy:

It is hereby understood and agreed that with respect to the property section only:

Except as specifically stated in this policy or endorsement attached thereto, the company shall not be liable for loss, damage, costs, expenses, fines, or penalties incurred, sustained by or imposed on the Insured at the order of any Government Agency, Court, or other Authority arising from any cause whatsoever.

However, if any time element coverage is afforded by this policy or endorsements thereto, the coverage is extended to include any increase in the actual loss sustained by the Insured, resulting directly from an interruption of business covered hereunder, during the length of time not exceeding thirty ( 30) days, when as a direct result of damage to or destruction of covered property by the peril(s) insured against, access to the premises or commencement of repairs is delayed at the order of any Government Agency, Court, or other Authority.

All other terms and conditions remain unchanged.

## **Policy Change Endorsement 5 – Millennium Endorsement**

The following provisions are hereby attached to and made part of this Policy:

- A. The Insurer will not pay for Damage or Consequential Loss directly or indirectly caused by, consisting of, or arising from, the failure of any computer, data processing equipment or media microchip, operating systems, microprocessor (computer chip), integrated circuit or similar device, or any computer software, whether the property of the Insured or not, and whether occurring before, during or after the year 2000 that results from the inability to:
  - 1. correctly recognize any date as its true calendar date;
  - 2. capture, save, or retain and/or correctly manipulate, interpret or process any data or information or command or instruction as a result of treating any date other than its true calendar date; and/or
  - 3. capture, save, retain or correctly process any data as a result of the operation of any command which has been programmed into any computer software, being a command which causes the loss of data or the inability to capture, save, retain or correctly process such data on or after any date.
- B. It is further understood that the Insurer will not pay for the repair or modification of any part of an electronic data processing system or its related equipment, to correct deficiencies or features of logic or operation.
- C. It is further understood that the Insurer will not pay for Damage or Consequential Loss arising from the failure, inadequacy, or malfunction of any advice, consultation, design evaluation, inspection installation, maintenance, repair or supervision done by the Insured or for the Insured or by or for others to determine, rectify or test, any potential or actual failure, malfunction or inadequacy described in A. above.

This endorsement shall not exclude subsequent Damage or Consequential Loss, not otherwise excluded, which itself results from a covered peril.

Nothing herein contained shall be held to vary, alter, waive or change any of the terms, limits or conditions of the policy, except as herein above set forth.

All other terms and conditions remain unchanged.

## **Policy Change Endorsement 6 – Mold Exclusion**

The following provisions are hereby attached to and made part of this Policy:

Unless the direct result of a covered peril as defined by the policy, this policy does not insure any loss, damage or expense consisting of, caused by, contributed to, or aggravated by mold, moss, mildew, fungi, spores, bacterial infestation or any similar organism, wet or dry rot and extremes of temperature or humidity. This includes, but is not limited to, the cost for investigation, testing, remediation services, extra expense or business interruption.

If loss otherwise covered by this policy occurs and the cost of removal of debris is increased due to the presence of rust, mold, moss, fungus, bacterial infestation, wet or dry rot and extremes of temperature or humidity, the company's total liability for any one occurrence will not exceed the Limits of Liability shown in Section 2.

All losses claimed for this coverage as a direct result of physical loss or damage to insured property must be reported to the Insurer within 365 days of the actual loss occurrence date.

All other terms and conditions remain unchanged.

**Policy Change Endorsement 7 – Schedule of Mortgage Holders or Loss Payees -  
Fontainebleau**

The following provisions are hereby attached to and made part of this Policy:

Location Description of Property Name and Address of Mortgage Interests Holder ("M" for Mortgage Holder) or Loss Payee ("LP" for Loss Payee)

Notice of cancellation and policy changes:

Should coverage under this policy be cancelled by the company prior to the expiration date thereof, the company will mail notice of cancellation at least 90 days prior to cancellation to the declared interests below and to all certificate holders as their interest may appear as shown on the certificates of insurance and / or certificate holder report provided to the company. In addition, the company will send notification of any changes to the policy that may affect that interest.

All other terms and conditions remain unchanged.

1. KeyBank National Association as Master Servicer on behalf of U.S. Bank National Association, as Trustee for the benefit of the holders of  
J.P. Morgan Chase  
Commercial Mortgage Securities Trust 2014-FBLU,  
Commercial Mortgage Pass-Through Certificates Series 2014FBLU  
11501 Outlook Street, Overland Park, KS 66211



**Policy Change Endorsement 8 – Schedule of Mortgage Holders or Loss Payees –  
Turnberry Isle Resort LP**

The following provisions are hereby attached to and made part of this Policy:

Location Description of Property Name and Address of Mortgage Interests Holder ("M" for Mortgage Holder) or Loss Payee ("LP" for Loss Payee)

Notice of cancellation and policy changes:

Should coverage under this policy be cancelled by the company prior to the expiration date thereof, the company will mail notice of cancellation at least 90 days prior to cancellation to the declared interests below and to all certificate holders as their interest may appear as shown on the certificates of insurance and / or certificate holder report provided to the company. In addition, the company will send notification of any changes to the policy that may affect that interest.

All other terms and conditions remain unchanged.

Location	Name and Address of Mortgage Holder or Loss Payee	Declared Interest
Turnberry Isle Resort LP, 19999 West Country Club Drive, Aventura, FL 33180	Bank of China, New York Branch ISAOA, ATIMA as Administrative Agent (as servicer) c/o Trimont Real Estate Advisors, Inc. 3500 Lenox Road, Suite G1 Atlanta, GA 30326	Mortgagee / Loss Payee

**Policy Change Endorsement 9 – Schedule of Mortgage Holders or Loss Payees –  
Turnberry Isle Resort LP**

The following provisions are hereby attached to and made part of this Policy:

Location Description of Property Name and Address of Mortgage Interests Holder ("M" for Mortgage Holder) or Loss Payee ("LP" for Loss Payee)

Notice of cancellation and policy changes:

Should coverage under this policy be cancelled by the company prior to the expiration date thereof, the company will mail notice of cancellation at least 90 days prior to cancellation to the declared interests below and to all certificate holders as their interest may appear as shown on the certificates of insurance and / or certificate holder report provided to the company. In addition, the company will send notification of any changes to the policy that may affect that interest.

All other terms and conditions remain unchanged.

Location	Name and Address of Mortgage Holder or Loss Payee	Declared Interest
Beach Club Acquisition, LLC (Turnberry Isle Ocean Club) 215 185 Street Sunny Isles, FL 33160	Bank of the Ozarks It's Successors and Assigns As Their Interest May Appear 8201 Preston Road, Suite 700 Dallas, TX 75225	Mortgagee / Loss Payee

**Policy Change Endorsement 10 – Schedule of Mortgage Holders or Loss Payees –  
Turnberry Isle Resort LP**

The following provisions are hereby attached to and made part of this Policy:

Location Description of Property Name and Address of Mortgage Interests Holder ("M" for Mortgage Holder) or Loss Payee ("LP" for Loss Payee)

Notice of cancellation and policy changes:

Should coverage under this policy be cancelled by the company prior to the expiration date thereof, the company will mail notice of cancellation at least 90 days prior to cancellation to the declared interests below and to all certificate holders as their interest may appear as shown on the certificates of insurance and / or certificate holder report provided to the company. In addition, the company will send notification of any changes to the policy that may affect that interest.

All other terms and conditions remain unchanged.

Location	Name and Address of Mortgage Holder or Loss Payee	Declared Interest
Cabi Turnberry Aventure Office, LP Country Club Center 19950 West Country Club Drive Aventura, FL 33180	Wells Fargo Bank, N.A. As Master Servicesr, CMS Insurance D1128-02W 1525 West WT Harris Blvd Charlotte, NC 28262	Mortgagee / Loss Payee

**Policy Change Endorsement 11 – Schedule of Mortgage Holders or Loss Payees –  
Turnberry Isle Resort LP**

The following provisions are hereby attached to and made part of this Policy:

Location Description of Property Name and Address of Mortgage Interests Holder ("M" for Mortgage Holder) or Loss Payee ("LP" for Loss Payee)

Notice of cancellation and policy changes:

Should coverage under this policy be cancelled by the company prior to the expiration date thereof, the company will mail notice of cancellation at least 90 days prior to cancellation to the declared interests below and to all certificate holders as their interest may appear as shown on the certificates of insurance and / or certificate holder report provided to the company. In addition, the company will send notification of any changes to the policy that may affect that interest.

All other terms and conditions remain unchanged.

Location	Name and Address of Mortgage Holder or Loss Payee	Declared Interest
YCM Acquisition, LLC Turnberry Isle Marina 1) 19735 NE 36 Court, Miami, FL 33180-2797 2) 19755 NE 36 Court, Miami, FL 33180-2797 3) 19745 NE 36 Court, Miami, FL 33180-2797 4) 19825 NE 36 Court, Miami, FL 33180-2797 5) 19695 NE 36 Court, Miami, FL 33180-2797 6) North Tower Turnberry Towers – Condo Units C and L, Tennis Court and Parking Unit P	Florida Community Bank, N. A. Its successors and/or assigns 369 N. New York Avenue Winter Park, FL 32789	Mortgagee / Loss Payee

## **Policy Change Endorsement 12 – Company Specific Forms**

The following provisions are hereby attached to and made part of this Policy:

In addition to each Company(ies)'s Declaration's Page (excluding any pre-printed terms and conditions), Price, Renewal Date, Premium Credits, Premium Payment Conditions, State Statute Amendatory Endorsements and Producer Compensation Notices / Disclosures, if applicable; the following Company(ies)'s endorsements, forms, exclusions, etc... are added and apply only towards the individual Company(ies) to which such is noted. No other Company(ies) may claim such wording as their own, whether more or less restrictive, in the event of loss to apply against all recovery.

The terms and conditions contained within this policy shall supersede those of any General Policy Conditions; General Property Conditions; terms and conditions within a Policy Jacket; Fire Policy Form; terms and conditions of the Declarations Page which conflict with the policy; and any other endorsements or conditions added by the Company(ies) upon policy's issuance or thereafter which are not noted in the above paragraph or listed below or have not been previously advised and agreed to by the Insured.

Engineering fees, loss prevention fees, object certificates fees, plan reviews and subsequent services / products, surplus lines taxes and fees, US FET Taxes and various state and local taxes and fees such as the Florida Fire College Trust Fund and Florida Emergency Mgmt, Preparedness & Assist. Fund Trust for the State of Florida and/or other state assessments should be viewed as unequal as charged on an individual Company basis separately from premium.

## **Policy Change Endorsement 13 - Machinery Breakdown Endorsement**

The following provisions are hereby attached to and made part of this Policy:

### **1. INSURING AGREEMENT**

Subject to all the provisions stated herein the Company shall be liable for:

- (a) direct physical loss to property of the Insured and to property of others in the care, custody or control of the Insured;
- (b) the loss and expense resulting from the necessary interruption of business; if a Business Interruption Section is attached and which provisions hereby apply;
- (c) extra expense; if a Business Interruption Section is attached and which provisions hereby apply and

all as resulting from an Accident to an Object.

When used in this Endorsement, the following definitions shall apply:

“Object” shall mean any boiler, fired or unfired pressure vessel, refrigerating or air conditioning system, piping and its accessory equipment, and any mechanical or electrical machine or apparatus used for the generation, transmission or utilization of mechanical or electrical power.

“Accident” shall mean a sudden and accidental breakdown of an Object or a part thereof which manifests itself at the time of its occurrence by physical damage that necessitates repair or replacement of the Object or part thereof.

### **2. LIMIT OF LIABILITY**

Liability under this Endorsement arising out of any One Accident is limited to POLICY LIMIT.

If an initial Accident causes other Accidents, all will be considered “One Accident”. All Accidents at any one location which manifest themselves at the same time and are the result of the same cause will be considered “One Accident.”

### **3. CONDITIONS**

With respect to Objects insured by the provision of this Endorsement, the following conditions shall apply:

#### **a. Inspection**

The Company shall be permitted but not obligated to inspect, at all reasonable times, any Object. 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 Insured or others, to determine or warrant that the Object is safe or healthful.

#### **b. Suspension**

Upon the discovery of a dangerous condition with respect to any Object, any representative of the Company may immediately suspend the insurance with respect to an Accident to said Object by written notice mailed or delivered to the Insured at the address of the Insured, or at the Location of the Object. Insurance so suspended may be reinstated by the Company, but only by an Endorsement issued to form a part

of this policy. The Insured will be allowed the unearned portion of the premium paid for the suspended insurance, pro rata, for the period of suspension.

4. SUBLIMITS OF COVERAGE

a. Expediting Expenses Coverage

This policy is extended to cover the reasonable extra cost to make temporary repair, expedite permanent repairs and expedite permanent replacement of property covered by this Endorsement, including overtime and the extra cost of express or other rapid means of transportation when loss to such property results from damage as insured against by this Endorsement, all subject to a limit of \$50,000,000. This limit is part of and not in addition to the Limit of Liability.

b. Hazardous Substances Coverage

It is agreed that, if, as a result of an Accident, any property is damaged, contaminated, or polluted by a substance declared by a governmental agency to be hazardous to health, the Company shall be liable under the policy for the additional expenses incurred for cleanup, repair or replacement, or disposal of that damaged, contaminated or polluted property. The Company's total liability for additional expenses shall not exceed \$10,000,000. This limit is part of and not in addition to the Limit of Liability.

As used here, "additional expenses" shall mean expenses incurred beyond those for which the Company would have been liable if not substance hazardous to health had been involved in the Accident.

c. Ammonia Contamination Coverage

The Company's liability for loss, including salvage expense, with respect to damage by ammonia contacting or permeating property under refrigeration or in process requiring refrigeration, resulting from any One Accident to one or more Objects shall not exceed \$100,000,000. This limit is part of and not in addition to the Limit of Liability.

d. Water Damage Coverage

The Company's liability for loss, including salvage expense, on property damaged by water, resulting from any One Accident shall not exceed \$100,000,000. This limit is part of and not in addition to the Limit of Liability.

e. Off Premises Service Interruption

This policy is extended to cover the necessary interruption of business conducted by the Insured which results from service interruption caused as a result of an Accident to an Object, as defined above, whether or not such Object is located on the premises of the Insured, which is:

a. owned by the public utility company or other company contracted by the Insured to supply steam, gas, water, electricity or refrigeration to the Insured, and

b. used to supply said services directly to the Insured,

provided the duration of such interruption is in excess of twenty four (24) hours. However, as respects such Object, the Company shall not be liable under this endorsement for payment of any loss resulting from or arising out of an Accident caused by flood, earthquake, fire, lightning, sprinkler leakage, windstorm, hail,

aircraft, vehicles, smoke, explosion, civil authority, riot, civil commotion, vandalism or molten material.

This Company's liability for loss from Off Premises Service Interruption from any One Accident shall not exceed \$100,000,000. This limit is part of and not in addition to the Limit of Liability.

f. Consequential Damage

This policy is extended to cover loss to property of the Insured and loss to property of others for which the Insured shall become legally obligated to pay when such loss is due to spoilage from lack of power, light, heat, steam, or refrigeration resulting solely from an Accident to an Object, subject to a limit of \$100,000,000. This limit is part of and not in addition to the Limit of Liability.

6. EXCLUSIONS

a. The following losses are not insured under this Endorsement:

- 1) Breakdown of any structure or foundation (other than a bedplate of a machine) supporting an Object or any part thereof, not caused by an Accident to the Object;
- 2) Breakdown of any boiler setting, insulating or refractory material not caused by an Accident to the Object;
- 3) Breakdown of well casings, penstocks or draft tubes;
- 4) Breakdown of Objects manufactured or held by the Insured for sale to others;
- 5) Breakdown of catalyst not caused by an Accident to the Object containing such catalyst or any other insured Objects;
- 6) Breakdown of any oven, stove or furnace;
- 7) Breakdown of any sewer piping, any underground gas piping, any piping forming a part of a sprinkler system or any water piping other than:
  - (a) feed water piping between any boiler and its feed pumps or injectors,
  - (b) boiler condensate return piping, or
  - (c) water piping forming a part of a refrigerating or air conditioning system used for cooling, humidifying or space heating purposes;
- 8) Breakdown of an Object until such time as said Object has been installed and completely tested on the premises of the Insured. For the purposes of this insurance, "completely tested" shall mean that said Object has operated on the Insured's premises in the capacity for which it was designed as part of the Insured's normal production process or processes. Notwithstanding the above, coverage under this Agreement shall apply to any newly installed Object having a fair market value of \$100,000,000. or less and to any spare or replacement Object or having parts hereof;
- 9) An Accident to any Object while it is being maintained or altered if said Accident is direct result of said maintenance or alterations. However, if an Accident otherwise insured hereunder subsequently ensues, then the Company shall be liable for such Accident. Any opening, closing or transporting of an Object shall not be considered a part of any maintenance or alterations;



- 10) An Accident to any Object utilizing sulfur dioxide or hydrogen sulfide gas as respects:
  - (a) loss or damage resulting from corrosion anywhere following said Accident,
  - (b) loss or damage to catalyst caused by steam or water contacting or permeating the said catalyst following said Accident, and
  - (c) payment under any Business Interruption or Extra Expense Endorsement forming a part of this policy, for any time during which the resumption of business is in anyway curtailed, delayed or prevented because of loss or damage of the kinds referred to in the preceding Sections (a) and (b);
- 11) Breakdown of any vacuum tube or gas tube; and
- 12) Breakdown of any electronic computer or electronic data processing equipment, unless used to operate one or more insured "objects".
- 13) Any increase in loss caused by or resulting from the enforcement of any ordinance, law, regulation, rule or ruling regulating or restricting repair, replacement, alteration, use, operation, construction or installation. As used here, increase in loss also includes expenses incurred beyond those for which we would have paid if no substance declared to be hazardous to health by a governmental agency had been involved in the "accident".
- 14) Loss caused by or resulting from:
  - a. War, including undeclared or civil war;
  - b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
  - c. Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

B. As respects this Endorsement, Accident shall not include loss:

- 1) From depletion, deterioration, corrosion or erosion, wear and tear, leakage at any valve, fitting, shaft seal, gland packing, joint or connection; the functioning of any safety or protective device; nor shall Accident mean the breakdown of any Object while it is undergoing hydrostatic, pneumatic, gas pressure, or insulation breakdown tests, or is being dried out;
- 2) From fire concomitant with or following an Accident or from the use of water or other means to extinguish fire (as respects any electrical machine or apparatus or gas turbine), this section is changed to read: "from fire outside said electrical machine or apparatus or gas turbine concomitant with or following an Accident or from the use of water or other means to extinguish fire";
- 3) From an Accident caused directly or indirectly by fire or from the use of water or other means to extinguish fire;
- 4) From a combustion explosion outside the Object concomitant with or following an Accident;

- 5) From an Accident caused directly or indirectly by a combustion explosion outside the Object;
- 6) As a respects any boiler of the chemical recovery type, from an explosion within the furnace of any such boiler or within the passages from the furnace to the atmosphere whether or not such explosion (a) is contributed to or aggravated by an Accident to any part of said boiler that contains steam or water, or (b) is caused in whole or in part, directly or indirectly, by an Accident to any Object or part thereof;
- 7)
  - (a) From an Accident caused directly or indirectly by nuclear reaction, nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or
  - (b) From nuclear reaction, nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, caused directly or indirectly by, contributed to or aggravated by an Accident;

nor shall the Company be liable for any loss covered in whole or in part by a contract of insurance, carried by the Insured, which also covers any hazard or peril of nuclear reaction or nuclear radiation.

C. Notwithstanding any provisions in the policy or its other Endorsements to the contrary, the Company assumes no liability under this Endorsement for any loss:

- 1) From an Accident caused directly or indirectly by earth movement, including but not limited to earthquake, landslide, mudslide, subsidence or volcanic eruption; or
- 2) From the explosion of accumulated gases or unconsumed fuel within the fire box, or combustion chamber, or any fired vessel or within the flues which conduct the gases of combustion therefrom;
- 3) From flood, unless an Accident ensues and the Company shall then be liable under this Endorsement only for loss from such ensuing Accident; and
- 4) From explosion of an Object other than:
  - (a) any steam boiler, steam piping, steam turbine, gas turbine, steam engine, or
  - (b) any machine or electrical apparatus when such loss is caused by centrifugal force or mechanical breakdown.

D. With respect to an Accident to an Object, liability for loss to any catalyst shall not exceed the Actual Cash Value thereof at the time of said loss.

All other terms and conditions remain unchanged.

**Policy Change Endorsement 14 - Drop Down & Priority of Payment Endorsement  
(Excess Clause)**

The following provisions are hereby attached to and made part of this Policy:

Coverage hereunder shall not apply until the amount of loss, damage or expense arising out of any one occurrence exceeds

See Participation Page

plus the applicable portion of the primary policy deductible and any waiting period attributable to the perils and/or property and/or coverages insured hereunder.

The amount of the applicable portion of the primary policy deductible referred to above shall be determined by the proportion that the amount of loss attributable to the perils and/or property and/or coverages insured against under this policy (without application of the excess provision) bears to the total amount of loss multiplied by the amount of the applicable primary deductibles.

In the event that the total amount of loss, damage, or expense attributable to the perils and/or property and/or coverage insured under the underlying insurance exceeds that amount at which this policy would normally attach, but due to the application of sublimits in the underlying policy(ies), the total loss, damage and expense payable by the underlying policy(ies) does not fully exhaust the underlying policy(ies) limit, then this policy shall drop down and be liable for the loss as covered under this policy in excess of the amount paid by the underlying policy(ies).

As respects theft, the term Occurrence as referred to elsewhere within the policy means the sum total of all losses of covered property resulting from one or more concealed acts committed by one person or more than one person acting in unison to the extent such loss is not otherwise excluded under this policy.

- a. In determining the amount of any loss, damage, or expense for which this policy is excess, the total loss for all coverages caused by any combination of perils, one or more of which is insured against under the primary policy, shall be used even though all such perils or coverages are not insured against under this excess policy.

- (1) Any recoveries made under the primary policy shall be considered as first applying to those perils and/or property and/or coverages not insured against by this policy. Upon exhaustion of the primary policy limits, this policy shall drop down and be liable for the loss in excess of the amount attributable to the primary policy as respects those perils and/or coverages and/or property insured hereunder subject to the limit of this policy.

(2) If there is any other excess insurance covering the perils and/or property and/or coverages insured against in the primary policy, but not covered by this policy, this insurance shall then allocate any loss recoveries made under the primary policy in the same proportion as the amount of loss involving the property and/or coverages insured against by this policy bears to the combined total loss. Upon exhaustion of the primary policy limits, this policy shall drop down and be liable for the loss in excess of the amount attributed to the primary policy as respects those perils and/or property and/or coverages covered hereunder subject to the limit of this policy.

(3) Paragraph two shall not apply, however, when the amount of loss attributed to the perils insured under the primary policy, but not covered under this policy, exceed the total amount of insurance provided by the primary and excess coverages with respect to said perils. In this situation any recoveries made under the primary policy shall first apply to those perils not insured against by this policy. Upon exhaustion of the primary policy limits, this policy shall drop down and be liable for the loss in excess of the amount attributed to the primary policy as respects those perils covered hereunder subject to the limit of this policy.

(4) In the event the Insured is a contributing or self-insurer with respect to the perils and/or property and/or coverages otherwise insured in any underlying insurance and no policy is issued to define the extent of this contributing or self insurance, for the purposes of this Excess Clause, the Insured's contributing or self-insurance shall be deemed to be the same as either: (a) all other contributing insurance participating in the Insured's layer(s); or (b) all other contributing insurance participating in the layer below the Insured's layer where the Insured is entirely self insuring the layer. If the coverage provided by the policy(s) of the other contributing insurance company(s) is non-concurrent, then the contributing or self insurance provided by the Insured within the layer in question shall be deemed to be the same as the coverage provided by that contributing insurance company whose policy provides the least indemnity for the loss.

- b. In the event the aggregate limits provided for flood and/or earthquake in any underlying insurance are diminished or exhausted in any one policy term, the coverage provided under this policy shall respond as excess of the remaining limits.

In such event, the applicable amount of the deductible provision of the primary policy shall apply to the combination of all policies.

Where applicable relative to contributing insurance policy(s) described in either subparagraphs B(4)(a) or B(4)(b) above, in the event the Insured is providing contributing or self-insurance in any of the layer(s) of insurance, and such other contributing insurance policies contain aggregate limits of liability, the Insured's contributing or self insurance for those coverages shall be deemed to be aggregated also.

### **Policy Change Endorsement 15 –Marina Endorsement**

Effective June 1, 2018 at 12:01 AM, The following provisions are hereby attached to and made part of this Policy:

The Marinas as listed on the reported Statement of Values are considered a part of this policy and are covered by the terms and conditions of the issued policy form.

Exclusion H under Section 10. Property Excluded is hereby declared null and void for this specified exposure.

All other terms and conditions to remain unchanged.

# NUCLEAR, BIOLOGICAL, CHEMICAL, RADIOLOGICAL EXCLUSION ENDORSEMENT

Named Insured Fontainebleau Florida Hotel, LLC			Endorsement Number
Policy Symbol FS	Policy Number D42273223 001	Policy Period 06/01/2019 to 06/01/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) Westchester Surplus Lines Insurance Company			

**THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.**

**This endorsement modifies insurance provided under the following:**

**BOILER AND MACHINERY COVERAGE PART  
COMMERCIAL INLAND MARINE COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE PART  
CRIME AND FIDELITY COVERAGE PART**

The following exclusions are added to your Policy or Coverage Part.

This insurance does not apply to:

- A.** Loss or damage arising directly or indirectly from nuclear detonation, reaction, nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing, 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 physical loss or damage insured against by this Policy or Coverage Part, however such nuclear detonation, reaction, nuclear radiation or radioactive contamination may have been caused. This exclusion replaces any other nuclear detonation, nuclear reaction, nuclear radiation or radioactive contamination exclusions found elsewhere in this Policy.
- B.** Loss or damage arising directly or indirectly from the dispersal, application or release of, or exposure to, chemical, radiological, or biological materials or agents, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing, 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 physical loss or damage insured against by this Policy or Coverage Part, however such dispersal, application, release or exposure may have been caused.
- C.** If this endorsement is attached to a Commercial Inland Marine Policy or Coverage Part, the term loss or damage is changed to Loss.

**CERTIFICATES OF INSURANCE – AUTOMATIC ADDITIONAL INSURED AND LOSS PAYEE  
ENDORSEMENT**

Named Insured Fontainebleau Florida Hotel, LLC			Endorsement Number
Policy Symbol FS	Policy Number D42273223 001	Policy Period 06/01/2019 to 06/01/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) Westchester Surplus Lines Insurance Company			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:**

**COMMERCIAL PROPERTY COVERAGE PART**

**COMMERCIAL INLAND MARINE COVERAGE PART**

The following provisions are added to this policy and supersede and replace any conflicting provision in this Policy (including in any other endorsement hereto):

- A. Any Certificate of Insurance issued in connection with this Policy will be issued solely as a matter of convenience or information for the addressee(s) or holder(s) of said certificate. Certificates of Insurance do not amend, modify or alter any term or condition of this Policy.
- B. However, if, pursuant to a written agreement executed prior to a date of loss in question, the First Named Insured is required to add a person or entity to this Policy as an Additional Insured and Loss Payee, then this Policy will be deemed to have been endorsed accordingly, subject to all other terms, conditions, limits of liability and exclusions of this Policy. Loss to Covered Property in which such Additional Insured and Loss Payee has an interest will be adjusted with the First Named Insured and payable jointly to the First Named Insured and such Additional Insured and Loss Payee. No written endorsement to this Policy will be required in order for this provision to be effective as to such person or entity subject to compliance with sub-paragraph E. below.
- C. Within ten (10) business days after the Company is notified of a loss which may be covered under this Policy, the First Named Insured or its authorized representative will provide the Company with the identities of all persons or entities with interests in the property that is subject to the loss as well as copies of the agreement requiring such person or entity be added to this Policy as an Additional Insured or Loss Payee. If the First Named Insured requires additional time to comply with this paragraph, the Company will provide extensions of time that are reasonable and appropriate for the circumstances, however, all such requests for extensions must be made in writing to the Company.
- D. If the First Named Insured does not provide the Company with the information required in paragraph C above, the Company will assume that there are no such persons or entities and the Company will not be liable for any failure to take such person or entity's interest into account in the adjustment or payment of any loss.
- E. This endorsement does not apply to persons or entities added by endorsement under the applicable Lenders Loss Payee and Mortgage Interests and Obligations provisions of this Policy. Persons or entities added as Additional Insured and Loss Payee pursuant to this endorsement do not have the same rights and obligations as the First Named Insured or Lenders Loss Payee and Mortgage Interests.

All other terms and conditions remain unchanged.



**ASBESTOS MATERIAL EXCLUSION  
(Named Peril Exception)**

Named Insured <b>Fontainebleau Florida Hotel, LLC</b>			Endorsement Number
Policy Symbol <b>FS</b>	Policy Number <b>D42273223 001</b>	Policy Period <b>06/01/2019 to 06/01/2020</b>	Effective Date of Endorsement
Issued By (Name of Insurance Company) <b>Westchester Surplus Lines Insurance Company</b>			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:**

**COMMERCIAL PROPERTY COVERAGE PART**

**COMMERCIAL INLAND MARINE COVERAGE PART**

The following exclusion is added to this policy; supersedes any term, provision or endorsement to the contrary in this policy; and applies notwithstanding such term, provision or endorsement:

- A. This policy excludes loss or damage to asbestos, asbestos-containing product, or asbestos-containing material.
- B. This policy does not provide insurance against any loss, damage, cost, expense, fine or penalty resulting from or arising out of:
  1. remediation of any kind, including but not limited to removal or modification, of any asbestos, asbestos-containing product, or asbestos-containing material from a building or structure of any kind, whether damaged or undamaged, and regardless of the reason such removal is undertaken, whether voluntary or compelled by government directive; or
  2. the demolition or increased cost of reconstruction of property, the repair of property, the removal of debris, or the loss of use of property when caused by, arising out of, or undertaken due to the enforcement of any law, regulation, rule or ordinance that in any manner regulates asbestos, asbestos-containing product, or asbestos-containing material, except to the extent that coverage is provided by the Demolition and Increased Cost of Construction Additional Coverage; or
  3. any fault in the design, manufacture, or installation of asbestos, asbestos-containing product, or asbestos-containing material.
- C. Notwithstanding the exclusions set forth above, this Policy covers direct physical loss or damage to asbestos, asbestos-containing product, and asbestos-containing material which is physically incorporated into an insured building or structure, including the necessary costs to remove or remediate such damaged asbestos, but only when such damage occurring during the policy period is directly and solely caused by the following perils, and then only that part of such asbestos which incurs direct physical loss or damage:

fire, lightning, explosion, windstorm, hail, smoke, aircraft or vehicle impact, riot or civil commotion, vandalism, malicious mischief or accidental discharge of fire protective equipment.

All other terms and conditions remain unchanged.

## CLAIMS ADJUSTMENT

Named Insured Fontainebleau Florida Hotel, LLC			Endorsement Number
Policy Symbol FS	Policy Number D42273223 001	Policy Period 06/01/2019 to 06/01/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) Westchester Surplus Lines Insurance Company			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:**

**COMMERCIAL PROPERTY COVERAGE PART**

**COMMERCIAL INLAND MARINE COVERAGE PART**

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**COMMERCIAL BOILER & MACHINERY COVERAGE PART**

It is a condition of this policy that the Company reserves the right to engage its own adjusters, investigators and experts at its sole discretion and expense.

The designated claims adjuster for this policy is:

Stuart Mintz

All other terms and conditions remain unchanged.

## POLLUTION EXCLUSION AND POLLUTANT CLEANUP AND REMOVAL COVERAGE EXTENSION ENDORSEMENT

Named Insured Fontainebleau Florida Hotel, LLC			Endorsement Number
Policy Symbol FS	Policy Number D42273223 001	Policy Period 06/01/2019 to 06/01/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) Westchester Surplus Lines Insurance Company			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:**

**COMMERCIAL PROPERTY COVERAGE PART**

**COMMERCIAL INLAND MARINE COVERAGE PART**

The following provisions and exclusions apply to the policy; supersede any term, provision or endorsement to the contrary in this policy; and apply notwithstanding any such term, provision or endorsement in this policy or in any underlying, contributing or followed policy to the contrary:

### **1. PROPERTY NOT COVERED**

In addition to any other provisions respecting Property not covered, this policy is amended as follows:

This policy does not cover land (including land on which covered property is located) or water.

### **2. EXCLUSION**

The following exclusion is added and replaces any other Pollution Exclusion applicable to this policy.

This policy does not cover loss or damage caused by or resulting from any of the following:

Discharge, dispersal, seepage, migration, release or escape of "Pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "Specified Causes of Loss", provided such "Specified Causes of Loss" are otherwise covered by this policy. But if the discharge, dispersal, seepage, migration, release or escape of "Pollutants" results in a "Specified Cause of Loss", this policy will cover the loss or damage caused by that "Specified Cause of Loss" provided such "Specified Causes of Loss" are otherwise covered by this policy.

### **3. DEBRIS REMOVAL**

If any Debris Removal coverage is included in this policy, this policy is amended as follows:

Debris Removal coverage does not apply to costs to:

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

### **4. TIME ELEMENT**

In the event that Time Element coverage is provided elsewhere in this policy or endorsed hereto, the term "Period of Restoration", "Period of Recovery", "Period of Interruption", "Period of Liability" or any similar term which defines the time period for which loss is covered shall not include any increased periods of time due to the enforcement of laws regulating the prevention, control, repair, clean-up or restoration of environmental damage.

## 5. POLLUTANT CLEANUP AND REMOVAL

The following Coverage Extension applies to this policy and replaces any other Pollutant Cleanup and Removal additional coverage or coverage extension contained elsewhere in this policy:

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

This Coverage Extension does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay under this Coverage Extension is \$10,000 or the limit for such coverage as stated elsewhere in this Policy, whichever is greater, for the sum of all covered expenses arising out of Covered Causes of Loss occurring during the policy period or during each separate 12-month period of this policy if this policy is for a term greater than 12 months.

## 6. DEFINITIONS

The following definition is added to this policy and replaces any other definition of "pollutants" contained elsewhere in this policy:

"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.

"Specified Causes of Loss" means the following: Fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.

- (a) Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:
  - a. The cost of filling sinkholes; or
  - b. Sinking or collapse of land into man-made underground cavities.
- (b) Falling objects does not include loss or damage to:
  - a. Personal property in the open; or
  - b. The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.
- (c) Water damage means accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of a plumbing, heating, air conditioning or other system or appliance (other than a sump system including its related equipment and parts), that is located on the described premises and contains water or steam.
- (d) Volcanic action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:
  - a. Airborne volcanic blast or airborne shock waves;
  - b. Ash, dust or particulate matter; or
  - c. Lava flow.

All other terms and conditions remain unchanged.

## ELECTRONIC DATA AMENDMENT ENDORSEMENT

Named Insured Fontainebleau Florida Hotel, LLC			Endorsement Number
Policy Symbol FS	Policy Number D42273223 001	Policy Period 06/01/2019 to 06/01/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) Westchester Surplus Lines Insurance Company			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:**

**BOILER AND MACHINERY COVERAGE PART  
COMMERCIAL INLAND MARINE COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE PART  
CRIME AND FIDELITY COVERAGE PART**

The following terms and provisions are added to the Policy; supersede any term, provision or endorsement to the contrary in this Policy; and apply notwithstanding any such term, provision or endorsement in this Policy or in any underlying, contributing or followed policy:

1. This Policy excludes loss, damage, destruction, distortion, erasure, corruption, alteration, diminishment in value, or loss of use or usefulness of:
  - a. "Electronic Data" by any cause whatsoever (including but not limited to "Computer Virus");
  - b. "Electronic Data Processing Equipment" caused by or resulting from the loss, damage, destruction, distortion, erasure, corruption, alteration, diminishment in value, or loss of use or usefulness of "Electronic Data"; regardless of any other cause or event that contributes concurrently or in any sequence to the loss, damage, destruction, distortion, erasure, corruption, alteration, diminishment in value, or loss of use or usefulness of "Electronic Data", "Electronic Data Processing Equipment", or "Electronic Media"; and/or
  - c. "Electronic Media" caused by or resulting from the loss, damage, destruction, distortion, erasure, corruption, alteration, diminishment in value, or loss of use or usefulness of "Electronic Data"; regardless of any other cause or event that contributes concurrently or in any sequence to the loss, damage, destruction, distortion, erasure, corruption, alteration, diminishment in value, or loss of use or usefulness of "Electronic Data", "Electronic Data Processing Equipment", or "Electronic Media".

This exclusion does not apply to loss or damage to "Electronic Data", "Electronic Data Processing Equipment", and "Electronic Media" caused by or resulting from a "Named Peril", if and to the extent such Named Peril is already covered by this or by any underlying policy.

2. This Policy excludes loss, damage, cost or expense resulting from or arising out of any failure, malfunction, deficiency, deletion, fault, Computer Virus or corruption of computer code that results from or arises out of any authorized or unauthorized access by any means and for any purpose, whether intentional or inadvertent, in, of or to any "Electronic Data", "Electronic Data Processing Equipment", or "Electronic Media" and similar data, media, devices, and equipment in the ownership, possession, or control of a third party.

### Definitions

1. "Electronic Data" means information, facts or "Computer Programs" stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hardware, computer memory, hard or floppy disks, zip drives, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment.

2. "Computer Programs" means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to send, receive, process, store, retrieve, erase, or destroy data, and "Electronic Data" which is integrated in and operates or controls the building's elevator, lighting, plumbing, electricity, heating, ventilation, air conditioning, security system, safety system, and fire protection system, but does not include prepackaged software held in storage.
3. "Electronic Data Processing Equipment" means "Computers", computer servers and similar equipment and component parts thereof, the purpose of which is to process Electronic Data.
4. "Electronic Media" means any physical device the purpose of which is to hold, store, contain or transfer "Electronic Data", and includes but is not limited to disks, drives, films, tapes, records, drums, or cells.
5. "Computers" includes but is not limited to mainframes, servers, workstations and portable computing devices, personal information managers, wide and local area network hardware, electronic and electromechanical equipment, data processing equipment, electronic controls for machinery, electronically programmed memory chips, and electronically controlled communication equipment.
6. "Computer Virus" means instructions, code, files, applications or any software program that has the ability or is suspected to have the ability to damage, destroy, erase, corrupt, alter, impede, or prevent access to "Electronic Data", "Electronic Media" or "Computers", or to disrupt or interfere with the operations of "Computers", or to disrupt or interfere with the operation of any software or the reliability of any "Electronic Data", including but not limited to malicious codes, malware, Trojan Horses, worms and time or logic bombs.
7. "Named Peril" means the perils of Fire; Lightning; Explosion; Windstorm or Hail; Smoke; Aircraft or Vehicles; Riot and Civil Commotion; Willful or malicious physical loss or damage by a means other than "Computer Virus" and/or an authorized or unauthorized access in, of or to any "Electronic Data", "Electronic Data Processing Equipment" and/or "Electronic Media"; Leakage from fire extinguishing equipment; Sinkhole Collapse; Volcanic Action; Building glass breakage; Falling Objects, Weight of snow, ice or sleet, Water Damage; Sonic Boom; Theft; Flood, Earthquake or Earth Movement.

All other terms and conditions remain unchanged.

## TERRORISM EXCLUSION ENDORSEMENT

Named Insured Fontainebleau Florida Hotel, LLC			Endorsement Number
Policy Symbol FS	Policy Number D42273223 001	Policy Period 06/01/2019 to 06/01/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) Westchester Surplus Lines Insurance Company			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:**

**BOILER AND MACHINERY COVERAGE PART  
BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM  
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM  
COMMERCIAL INLAND MARINE COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE FORM  
COMMERCIAL PROPERTY COVERAGE PART  
STANDARD PROPERTY POLICY**

The following exclusion is added to this policy and applies to all coverages, additional coverages, and coverage extensions, notwithstanding any provision to the contrary in this policy or any other endorsement hereto:

- A. This insurance does not cover loss, damage, injury, expense, cost, or legal obligation directly or indirectly caused by or resulting from any of the following, regardless of any other cause or event, whether or not insured under this policy, contributing concurrently or in any other sequence thereto:
1. "Act of Terrorism"; or
  2. Actions taken by or on behalf of any government or any branch or division thereof (including, without limitation, the uniformed armed forces, militia, police, state security, and anti-terrorism agencies) in responding to, preventing, combating, defending or retaliating against any "Act of Terrorism"; or
  3. dispersal, application, or release of any actual or alleged pathogen, poison, biologic or chemical product, material, waste or substance as a result of an Act of Terrorism, and it reasonably appears that one purpose of the Act of Terrorism was to release such product, material, waste or substance.

This exclusion applies whether or not the "Act of Terrorism" was committed in concert with or on behalf of any organization or government.

The terms and limitations of this exclusion do not serve to create coverage for any loss which would otherwise be excluded under this Policy, such as, but not limited to, losses excluded by the "Nuclear Exclusion" or the "War Exclusion" or similar provision.

- B. As used in this endorsement:

1. "Act of Terrorism" means any act against persons, organizations or property of any nature that involves the following or preparation for the following:
  - a. Use or threat of force or violence; or
  - b. Commission or threat of a dangerous act; or
  - c. Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and

2. Appears to be intended, in whole or in part, to:

- a. Intimidate or coerce a government or the civilian population; or
- b. Disrupt any segment of a nation's economy; or
- c. Influence the policy of a government by intimidation or coercion; or
- d. Affect the conduct of a government by mass destruction, assassination, kidnapping or hostage-taking; or
- e. Further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology; or
- f. Respond to governmental action or policy.

"Act of Terrorism" shall also include any incident determined to be such by an official, department or agency that has been specifically authorized by federal statute to make such a determination.

C. Exception Covering Certain Fire Losses

If an Act of Terrorism results in a fire and the direct physical loss or damage to property insured hereunder located in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, each of the United States Virgin Islands and any territory or possession of the United States, that, either pursuant to the Standard Fire Policy or otherwise, prohibits exclusions for acts of terrorism that result in fire, this Company will pay for the loss or damage caused by that fire. Such coverage for fire applies only to direct loss or damage to property insured hereunder and may be limited, in accordance with the Standard Fire Policy, to the lesser of the actual cash value of the property at the time of the loss or the amount which it would cost to repair or replace the property, without allowance for any increased cost of repair or replacement by reason of any ordinance or law, and without any compensation for business interruption, extra expense to continue business activities, or any other coverage for loss or damage other than direct physical loss or damage to the property insured hereunder.

All other terms and conditions remain unchanged.



## SERVICE OF SUIT ENDORSEMENT - FLORIDA

Named Insured Fontainebleau Florida Hotel, LLC			Endorsement Number
Policy Symbol FS	Policy Number D42273223 001	Policy Period 06/01/2019 to 06/01/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) Westchester Surplus Lines Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Information about service of suits upon the company is given below. Service of process of suits against the company may be made upon the following person, or another person the company may designate:

Chief Financial Officer of the State of Florida  
Department of Financial Services  
200 E. Gaines Street  
Tallahassee, FL 32399

The person named above is authorized and directed to accept service of process on the company's behalf in any action, suit or proceeding instituted against the company. If the insured requests, the company will give the insured a written promise that a general appearance will be entered on the company's behalf if a suit is brought.

If the insured requests, the company will submit to the jurisdiction of any court of competent jurisdiction. The company will accept the final decision of that court or any Appellate Court in the event of an appeal. However, nothing in this endorsement constitutes a waiver of the company's right to: remove an action to a United States District Court, seek a transfer of a case to another court, or to enforce policy provisions governing choice of law or venue selection, as may be permitted by the laws of the United States, or of any state in the United States.

Florida law requires that the Chief Financial Officer of the State of Florida be designated as the company's agent for service of process. In Florida the company designates the Chief Financial Officer as the company's true and lawful attorney upon whom service of process on the company's behalf may be made. The company also authorizes the Chief Financial Officer to mail process received on the company's behalf to the company person named below.

Mr. Paul Bech, Esq., Associate General Counsel  
Chubb  
436 Walnut Street  
Philadelphia, PA 19106-3703

NOTHING HEREIN CONTAINED SHALL BE HELD TO VARY, ALTER, WAIVE OR EXTEND ANY OF THE TERMS, CONDITIONS, OR LIMITATIONS OF THE POLICY TO WHICH THIS ENDORSEMENT IS ATTACHED OTHER THAN AS ABOVE STATED.

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Authorized Representative

## GENERAL AMENDATORY ENDORSEMENT

Named Insured Fontainebleau Florida Hotel, LLC			Endorsement Number
Policy Symbol FS	Policy Number D42273223 001	Policy Period 06/01/2019 To 06/01/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) Westchester Surplus Lines Insurance Company			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY. THIS  
ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING  
FONTAINEBLEAU FLORIDA HOTEL PROPERTY POLICY**

With respect to Westchester Surplus Lines Insurance Company's participation, the following changes are hereby made to the Fontainebleau Florida Hotel Property Policy; supersede any term, provision or endorsement to the contrary in this policy; and apply notwithstanding such term, provision or endorsement:

**In Section 2. LIMITS OF LIABILITY:**

1. Sublimit R. is deleted and replaced with the following:  
R. USD 15,000,000 per occurrence as respects Trees, Plants & Shrubs
2. Sublimit T is deleted and replaced with the following:  
T. Excluded – Radioactive Contamination
3. Sublimit AA is deleted and replaced with the following:  
AA. USD 5,000,000 per occurrence as respects Contingent Time Element
4. Sublimit BB is deleted and replaced with the following:  
BB. USD 2,500,000 per occurrence as respects Leader Properties (10 mile distance limitation)
5. Sublimit EE is deleted and replaced with the following:  
EE. USD 2,500,000 as respects Emergency Vacating Expenses
6. Sublimit GG is deleted and replaced with the following:  
GG. USD 2,500,000 as respects Tenant Relocation Expenses
7. Sublimit JJ is deleted and replaced with the following:  
JJ. Excluded - Cancellation of Bookings

**In Section 3. DEDUCTIBLES,** the following is added under Tier 1 Counties:

The entire State of Florida  
MS 283799 (07-19)

In Section **6. COVERAGE**, paragraph **B. BUSINESS INTERRUPTION**, the first paragraph under sub-paragraph (1) is deleted and replaced with the following:

- (1) Loss of business income resulting from necessary interruption of business conducted by the Insured, whether total or partial, and caused by direct physical loss, damage, or destruction covered herein during the term of this policy to real and personal property as described in Clause 6.A.

In Section **6. COVERAGE**, paragraph **G. TIME ELEMENT EXTENSIONS**, the 2<sup>nd</sup> paragraph under sub-paragraph (1) e. Leader Property is deleted and replaced with the following:

Leader Property: property not owned or operated by the Insured, located within 10 miles of an Insured Location, which attracts business to the Insured.

In Section **10. PROPERTY EXCLUDED**, the following is added:

K. Furs, jewelry, precious or semi-precious stones.

L. Overhead transmission and distribution lines located beyond 1,000 feet of the Insured's premises.

M. Vehicles licensed for highway use.

N. Satellites

Section **24. ASSIGNED ADJUSTER** is deleted in its entirety.

All other terms and conditions remain unchanged.

## **POLICYHOLDER DISCLOSURE NOTICE OF TERRORISM INSURANCE COVERAGE**

You were notified that under the Terrorism Risk Insurance Act, as amended, you have a right to purchase insurance coverage for losses resulting from acts of terrorism. *As defined in Section 102(1) of the Act:* The term "act of terrorism" means any act or acts that are certified by the Secretary of the Treasury---in consultation with the Secretary of Homeland Security, and the Attorney General of the United States---to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

**YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED BY YOUR POLICY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THE FORMULA, THE UNITED STATES GOVERNMENT GENERALLY REIMBURSES 85% FOR YEAR 2015, 84% BEGINNING ON JANUARY 1, 2016; 83% BEGINNING ON JANUARY 1, 2017, 82% BEGINNING ON JANUARY 1, 2018; 81% BEGINNING ON JANUARY 1, 2019 AND 80% BEGINNING ON JANUARY 1, 2020, OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM THAT WOULD BE CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS THAT MAY BE COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.**

**YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A \$100 BILLION CAP THAT LIMITS U.S. GOVERNMENT REIMBURSEMENT AS WELL AS INSURERS' LIABILITY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM WHEN THE AMOUNT OF SUCH LOSSES IN ANY ONE CALENDAR YEAR EXCEEDS \$100 BILLION. IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED \$100 BILLION, YOUR COVERAGE MAY BE REDUCED.**

You elected **NOT** to purchase terrorism coverage under the Act at the price indicated. ACCORDINGLY, WE WILL **NOT** PROVIDE THIS COVERAGE AND YOU DO NOT OWE THE ADDITIONAL PREMIUM FOR THAT COVERAGE INDICATED BELOW.

Terrorism coverage described by the Act under your policy was made available to you for additional premium in the amount of <u>\$43,120</u> , however you elected to decline such coverage.
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### **Chubb Producer Compensation Practices & Policies**

Chubb believes that policyholders should have access to information about Chubb's practices and policies related to the payment of compensation to brokers and independent agents. You can obtain that information by accessing our website at <http://www.chubbproducercompensation.com> or by calling the following toll-free telephone number: 1-866-512-2862.

## TRADE OR ECONOMIC SANCTIONS ENDORSEMENT

Named Insured Fontainebleau Florida Hotel, LLC			Endorsement Number
Policy Symbol FS	Policy Number D42273223 001	Policy Period 06/01/2019 to 06/01/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) Westchester Surplus Lines Insurance Company			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit us from providing insurance, but not limited to, the payment of claims. All other terms and conditions of policy remain unchanged.

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Authorized Agent



## **Questions About Your Insurance?**

Answers to questions about your insurance, coverage information, or assistance in resolving complaints can be obtained by calling Chubb, Customer Support Service Department, at 1-800-352-4462.

# U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC") ADVISORY NOTICE TO POLICYHOLDERS

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous:

- Foreign agents;
- Front organizations;
- Terrorists;
- Terrorist organizations; and
- Narcotics traffickers;

as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's web site – <http://www.treas.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.



# Claims Directory

## Property and Inland Marine

Claims or Loss Notices related to this policy should be reported to the following:

Claim Office	Email and Fax	Location
Chubb North American Claims	<p>First Notices Email:  <a href="mailto:ChubbClaimsFirstNotice@Chubb.com">ChubbClaimsFirstNotice@Chubb.com</a></p> <p>First Notices Fax:            (877)-395-0131 (Toll Free)            (302)-476-7254 (Local)</p> <p>Phone:            (800)-433-0385 - Business Hours            (800)-523-9254 – After Hours</p>	P.O. Box 5122 Scranton, PA 18505-0554

## SIGNATURES

Named Insured Fontainebleau Florida Hotel, LLC			Endorsement Number
Policy Symbol FS	Policy Number D42273223 001	Policy Period 06/01/2019 to 06/01/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) Westchester Surplus Lines Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THE ONLY SIGNATURES APPLICABLE TO THIS POLICY ARE THOSE REPRESENTING THE COMPANY NAMED ON THE FIRST PAGE OF THE DECLARATIONS.

By signing and delivering the policy to you, we state that it is a valid contract.

**ILLINOIS UNION INSURANCE COMPANY** (A stock company)  
525 W. Monroe Street, Suite 400, Chicago, Illinois 60661

**WESTCHESTER SURPLUS LINES INSURANCE COMPANY** (A stock company)  
Royal Centre Two, 11575 Great Oaks Way, Suite 200, Alpharetta, GA 30022

  
REBECCA L. COLLINS, Secretary

  
JOHN J. LUPICA, President

\_\_\_\_\_  
Authorized Representative

Chubb. Insured.™

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**EXHIBIT B**

## PARTICIPATION PAGE

In consideration of the premium charged, the subscribers hereto, hereinafter referred to as the Insurer(s) and/or Company(ies) , do severally, but not jointly, agree to indemnify the Insured for the amount recoverable in accordance with the terms and conditions of the Policy, pages 1 – 74.

Provided that:

1. The collective liability of Insurers shall not exceed the Limit of Liability or any appropriate Sublimit of Liability or any Annual Aggregate limit.
2. The liability of each of the Insurers shall not exceed the Participation Limit set against its name with the exception of loss adjustment and professional fees which cost shall be 100% assume by the Insurers on each applicable layer of insurance.

Nothing herein contained shall be held to vary, alter, waive or change any of the terms, limits or conditions of the policy except as herein above set forth.

<b>Insurers</b>	<b>Policy No.</b>	<b>Participation</b>	<b>Authorized Signature</b>
<b>Ace American Insurance Company</b>	RLO D3783838A 009	\$6,500,000 part of \$25,000,000 primary	
<b>Lexington Insurance Company</b>	061818930	\$10,000,000 part of \$25,000,000	
<b>Beazley Syndicate 2623/623 (82%/18%)</b>	W275E6190101	\$3,750,000 part of \$25,000,000 primary	
<b>Interstate Fire &amp; Casualty Company</b>	RTX20000819	\$68,000,000 part of \$680,000,000 primary	
<b>Allianz Global Risks US Insurance Company</b>	USP00075319	\$45,000,000 part of \$500,000,000 primary	
<b>Indian Harbor Insurance Company</b>	US00091541PR19A	\$10,000,000 part of \$25,000,000 excess of \$25,000,000 primary	
<b>Liberty Specialty Markets Bermuda Limited</b>	LSP0005190	\$2,500,000 part of \$25,000,000 excess of \$25,000,000 primary	
<b>Colony Insurance Company</b>	XP180298-1	\$2,500,000 part of \$25,000,000 excess of \$25,000,000 primary	
<b>Westchester Surplus Lines Insurance Company</b>	D42273752 001	\$5,250,000 part of \$25,000,000 excess of \$25,000,000 primary	
<b>PICC Property and Casualty Company Limited</b>	A028201912000000000031	\$5,000,000 part of \$50,000,000 excess of \$50,000,000 primary	
<b>Endurance American Specialty Insurance Company</b>	GPR10011223002	\$5,000,000 part of \$50,000,000 excess of \$50,000,000 primary	
<b>Lloyd's of London via Brit 2987 (Underwriters at Lloyd's of London)</b>	PD-10336-05	\$2,500,000 part of \$50,000,000 excess of \$50,000,000 primary	

<b>Hallmark Specialty Insurance Company</b>	73PRX19A125	\$2,500,000 part of \$50,000,000 excess of \$50,000,000 primary	
<b>Hamilton Insurance Services (Bermuda) Ltd.</b>	PX194185-01	\$2,500,000 part of \$50,000,000 excess of \$50,000,000 primary	
<b>General Security Indemnity Company of Arizona (SRU)</b>	SD939100206-00	\$750,000 part of \$50,000,000 excess of \$50,000,000 primary	
<b>The Princeton Excess &amp; Surplus Insurance Company (SRU)</b>	3VA3PP0000408-00	\$2,500,000 part of \$50,000,000 excess of \$50,000,000 primary	
<b>Crum &amp; Forster Specialty Insurance Company (SRU)</b>	SRS-100248	\$1,125,000 part of \$50,000,000 excess of \$50,000,000 primary	
<b>Western World Insurance Company (SRU)</b>	SSC0000243	\$625,000 part of \$50,000,000 excess of \$50,000,000 primary	
<b>Argo Re Ltd</b>	P137326	\$12,000,000 part of \$200,000,000 excess of \$50,000,000 primary	
<b>Liberty Specialty Markets Bermuda Ltd</b>	LSP0005191	\$10,000,000 part of \$200,000,000 excess of \$50,000,000 primary	
<b>Westport Insurance Corporation (Swiss Re)</b>	NAP 0454058-05	\$37,500,000 part of \$150,000,000 excess of \$50,000,000 primary	
<b>Chubb Bermuda Insurance Ltd.</b>	TURNBRY01408P06	\$10,000,000 part of \$50,000,000 excess of \$100,000,000 primary	
<b>Scottsdale Indemnity Company (Nationwide)</b>	AJS0000906	\$7,500,000 part of \$50,000,000 excess of \$100,000,000 primary	
<b>Crum &amp; Forster Specialty Insurance Company</b>	PPP-910524	\$5,000,000 part of \$100,000,000 excess of \$100,000,000 primary	
<b>PICC Property and Casualty Company Limited</b>	A028201912000000000031	\$5,000,000 part of \$100,000,000 excess of \$100,000,000 primary	
<b>Neon Syndicate 2468</b>	BNPD19AA613A	\$10,000,000 part of \$100,000,000 excess of \$150,000,000 primary	
<b>Princeton Excess &amp; Surplus Lines Insurance Company</b>	78-A3-XP-0000396-05	\$10,000,000 part of \$100,000,000 excess of \$150,000,000 primary	
<b>Everest Indemnity Insurance Company</b>	RP5CF00067-191	\$52,500,000 part of \$350,000,000 excess of \$150,000,000 primary	
<b>QBE Specialty Insurance Company (SRU)</b>	ASRU000383-00	\$30,000,000 part of \$300,000,000 excess of \$200,000,000 primary	

<b>Chubb Bermuda Insurance Ltd.</b>	TURNBRY01408P06	\$45,000,000 part of \$300,000,000 excess of \$200,000,000 primary	
<b>XL Bermuda Ltd.</b>	XL PRP 1130090 19	\$30,000,000 part of \$300,000,000 excess of \$200,000,000 primary	
<b>Scottsdale Indemnity Company (Nationwide)</b>	AJS0000906	\$22,500,000 part of \$100,000,000 excess of \$250,000,000 primary	
<b>Maxum Indemnity Company</b>	MSP-6028764-04	\$8,500,000 part of \$100,000,000 excess of \$250,000,000 primary	
<b>Princeton Excess &amp; Surplus Lines Insurance Company</b>	78-A3-XP-0000396-05	\$37,500,000 part of \$150,000,000 excess of \$350,000,000 primary	
<b>Scottsdale Indemnity Company (Nationwide)</b>	AJS0000906	\$9,000,000 part of \$150,000,000 excess of \$350,000,000 primary	
<b>XL Bermuda Ltd.</b>	XL PRP 1130090 19	\$162,000,000 part of \$180,000,000 excess of \$500,000,000 primary	

# **E X H I B I T C**

**EXHIBIT C**

# Commercial Property – Claim Reporting and Claim Questions

## Options for Reporting a New Claim

- **Telephone :** **AIG CallOne<sup>sm</sup>:** 800-931-9546 24/7, 365 days/year
- **Fax :** 855-805-4125
- **Email :** **Please send your email to:**  
[NewLoss-USproperty&energy@aig.com](mailto:NewLoss-USproperty&energy@aig.com)
- **Mail :** P.O. Box 25967, Shawnee Mission, KS 66225

Such notice shall include the Named Insured as shown on the Declarations, the policy number, the date of loss and a brief description of the potential claim.

## Options for Questions Regarding Existing/Previously Reported Claims

For questions regarding existing claims, contact should be made directly via phone or email with the assigned AIG Examiner. ***However, in the instance where an AIG Examiner is unknown, please use the following methods to obtain the information:***

- **Claim Service Center: 877-873-9972**
- **AIG CallOne: 800-931-9546**





**LEXINGTON INSURANCE COMPANY**  
**ADMINISTRATIVE OFFICES: 99 HIGH STREET, BOSTON, MA, 02110**  
(hereinafter called the "Company")

**COMMERCIAL PROPERTY POLICY DECLARATIONS**

POLICY NUMBER: 061818930

RENEWAL OF: 061818930

ITEM 1.       Named Insured: SHOPPING CENTER MANAGEMENT GROUP  
DBA TURNBERRY ASSOCIATES

Address:       1950 BISCAYNE BLVD, SUITE 400  
AVENTURA, FL 33180

ITEM 2.       Policy Period:               From 06/01/2019               To 06/01/2020  
at 12:01 AM Standard Time at the address of the named insured shown above.

ITEM 3.       Limit of Insurance:

40% BEING \$10,000,000 PART OF \$25,000,000 PER OCCURRENCE AND IN THE  
PRIMARY

Total Premium: \$ 1,320,000

Terrorism Premium: \$ DECLINED

Minimum Earned Premium: \$ 330,000

ITEM 4.       Perils:  
AS DESCRIBED IN THE POLICY ATTACHED

ITEM 5.       Description of Property Covered:                       Coinsurance  
AS DESCRIBED IN THE POLICY ATTACHED                       NOT APPLICABLE

ITEM 6.       Mortgagee Clause: Loss, if any shall be payable to:  
PER CERTIFICATES ON FILE WITH THE COMPANY

ITEM 7.       Forms Attached:  
SEE ATTACHED FORMS SCHEDULE

Authorized Representative

## FORMS SCHEDULE

Named Insured: SHOPPING CENTER MANAGEMENT GROUP  
DBA TURNBERRY ASSOCIATES

Policy No: 061818930

Effective Date: 06/01/2019

<u>Form Number</u>	<u>Edition Date</u>	<u>Endorsement Number</u>	<u>Title</u>
PRPDEC	12/15		<b>COMMERCIAL PROPERTY POLICY DECLARATIONS</b>
			<b>MANUSCRIPT POLICY FORM</b>
		1	<b>COMPUTER VIRUS EXCLUSION (BROKER ENDT)</b>
		2	<b>ASBESTOS EXCLUSION (BROKER ENDT)</b>
		3	<b>CHEMICAL, BIOLOGICAL &amp; RADIOLOGICAL EXPOSURES EXCLUSION (BROKER ENDT)</b>
		4	<b>AUTHORITIES ENDORSEMENT (BROKER ENDT)</b>
		5	<b>ELECTRONIC DATE RECOGNITION CLAUSE (BROKER ENDT)</b>
		6	<b>TERRORISM EXCLUSION ENDORSEMENT (BROKER ENDT)</b>
		7	<b>MOLD EXCLUSION (BROKER ENDT)</b>
		8	<b>SCHEDULE OF MORTGAGE HOLDERS (BROKER ENDT)</b>
		9	<b>SCHEDULE OF MORTGAGE HOLDERS (BROKER ENDT)</b>
		10	<b>SCHEDULE OF MORTGAGE HOLDERS OR LOSS PAYEES (BROKER ENDT)</b>
		11	<b>SCHEDULE OF MORTGAGE HOLDERS OR LOSS PAYEES (BROKER ENDT)</b>
		12	<b>SCHEDULE OF MORTGAGE HOLDERS OR LOSS PAYEES (BROKER ENDT)</b>
		13	<b>SCHEDULE OF MORTGAGE HOLDERS OR LOSS PAYEES (BROKER ENDT)</b>

		14	<b>SCHEDULE OF MORTGAGE HOLDERS OR LOSS PAYEES (BROKER ENDT)</b>
		15	<b>SCHEDULE OF MORTGAGE HOLDERS OR LOSS PAYEES (BROKER ENDT)</b>
		16	<b>SCHEDULE OF MORTGAGE HOLDERS OR LOSS PAYEES (BROKER ENDT)</b>
		17	<b>MACHINERY BREAKDOWN ENDORSEMENT (BROKER ENDT)</b>
		18	<b>OCCURRENCE LIMIT OF LIABILITY (BROKER ENDT)</b>
		19	<b>UPGRADE TO GREEN COMMERCIAL ENDORSEMENT (BROKER ENDT)</b>
		20	<b>COMPANY SPECIFIC FORMS (BROKER ENDT)</b>
PR9019	08/15	021	<b>STANDARD PROPERTY CONDITIONS</b>
PR4266	12/14	022	<b>TERRORISM EXCLUSION ENDORSEMENT</b>
PR4225	07/13	023	<b>ECONOMIC SANCTIONS ENDORSEMENT</b>
PR4294	02/14	024	<b>CONFISCATION, EXPROPRIATION AND NATIONALIZATION EXCLUSION ENDORSEMENT</b>
NMA2915	01/01	025	<b>ELECTRONIC DATA ENDORSEMENT B</b>
PR4226	02/17	026	<b>HIGH HAZARD WIND ZONES ENDORSEMENT</b>
PR9015	04/16	027	<b>POLLUTION, CONTAMINATION, DEBRIS REMOVAL EXCLUSION ENDORSEMENT</b>
MANUSCRIPT		028	<b>LEXINGTON GENERAL CHANGE ENDORSEMENT</b>
MANUSCRIPT		029	<b>RESTATEMENT OF DEDUCTIBLE ENDORSEMENT</b>

## **POLICYHOLDER NOTICE**

Thank you for purchasing insurance from a member company of American International Group, Inc. (AIG). The AIG member companies generally pay compensation to brokers and independent agents, and may have paid compensation in connection with your policy. You can review and obtain information about the nature and range of compensation paid by AIG member companies to brokers and independent agents in the United States by visiting our website at [www.aig.com/producer-compensation](http://www.aig.com/producer-compensation) or by calling 1-800-706-3102.

**LEXINGTON INSURANCE COMPANY**

Administrative Offices: 99 High Street, Boston, Massachusetts 02110

Policy Number: 061818930

Named Insured: SHOPPING CENTER MANAGEMENT GROUP  
DBA TURNBERRY ASSOCIATES

Policy Effective Date: 06/01/2019

**SURPLUS LINES INSURERS' POLICY RATES AND FORMS ARE  
NOT APPROVED BY ANY FLORIDA REGULATORY AGENCY**

## PARTICIPATION PAGE

In consideration of the premium charged, the subscribers hereto, hereinafter referred to as the Insurer(s) and/or Company(ies) , do severally, but not jointly, agree to indemnify the Insured for the amount recoverable in accordance with the terms and conditions of the Policy, pages 1 – 74.

Provided that:

1. The collective liability of Insurers shall not exceed the Limit of Liability or any appropriate Sublimit of Liability or any Annual Aggregate limit.
2. The liability of each of the Insurers shall not exceed the Participation Limit set against its name with the exception of loss adjustment and professional fees which cost shall be 100% assume by the Insurers on each applicable layer of insurance.

Nothing herein contained shall be held to vary, alter, waive or change any of the terms, limits or conditions of the policy except as herein above set forth.

<b>Insurers</b>	<b>Policy No.</b>	<b>Participation</b>	<b>Authorized Signature</b>
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<b>XL Bermuda Ltd.</b>	XL PRP 1130090 19	\$30,000,000 part of \$300,000,000 excess of \$200,000,000 primary	
<b>Scottsdale Indemnity Company (Nationwide)</b>	AJS0000906	\$22,500,000 part of \$100,000,000 excess of \$250,000,000 primary	
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<b>XL Bermuda Ltd.</b>	XL PRP 1130090 19	\$162,000,000 part of \$180,000,000 excess of \$500,000,000 primary	



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**1. NAMED INSURED AND MAILING ADDRESS**

**SHOPPING CENTER MANAGEMENT DBA TURNBERRY ASSOCIATES**

Aventura Mall Venture, A Florida General Partnership, Shopping Center Management a Florida Partnership, Turnberry Development LLC and any affiliated, subsidiary, and associated companies and/or corporations and other entities, and all of such entities' direct and indirect interest in trusts, partnerships and joint ventures including at the insured's option its joint venture partner's interest as now exist or may hereafter be constituted or acquired including their interests as agents for others for which the Insured has the responsibility for placing insurance and as respects joint ventures and partnerships entered into by the Insured.

**AND ANY PARTY IN INTEREST WHICH THE  
INSURED IS RESPONSIBLE TO INSURE**

**HEREAFTER REFERRED TO AS "THE INSURED"**

**MAILING ADDRESS:** c/o Turnberry Associates  
19501 Biscayne Blvd., Suite 400  
Aventura, FL 33180

**2. TERM OF INSURANCE**

In consideration of the Premium paid, this policy attaches and covers for a period, from June 1, 2019 to June 1, 2020, beginning and ending at 12:01 A.M., standard time, at the location of the property involved.

The actual effective time of attachment of this insurance on the above date shall be the same time as the actual effective time of cancellation or expiration of policy(ies) replaced or renewed by this policy.

**3. LIMITS OF LIABILITY**

The Company's maximum limit of liability in a single occurrence regardless of the number of locations or coverages involved will not exceed the policy limit of liability of USD680,000,000.

When a limit of liability for a location or other specified property is shown, such limit will be the maximum amount payable for any loss or damages arising from physical loss or damage at such location or involving such other specified property.

If a lesser limit of liability is stated below or elsewhere in this policy, the lesser limit will apply. The limits of liability stated below or elsewhere in this policy are part of and not in addition to the policy limit of liability.

Limits of liability stated below or elsewhere apply in the aggregate per occurrence for all locations and coverages involved. When a limit of liability is shown as applying in the Aggregate during the policy term, the Company's maximum limit of liability will not exceed its proportional share of such a limit during the policy term regardless of the number of locations, coverages and occurrences involved.

A. With respect to the peril of Flood as defined in Section 13, for locations wholly outside a 100 year flood area, this Company shall not be liable, per occurrence and in the aggregate for this

Policy Term, for more than its proportion of USD200,000,000.

- B. With respect to the peril of Flood as defined in Section 13 for individual buildings or structures wholly or partially within 100 Year Flood areas, this Company shall not be liable, per occurrence and in the aggregate for this Policy Term, for more than its proportion of USD200,000,000.

100 Year Flood areas are:

Areas which at the time of loss or damage has been designated by Federal Emergency Management Agency (FEMA) to be located wholly within a Special Flood Hazard Area (SFHA);

Federal Emergency Management Agency (FEMA) shall mean the official map of a community on which the Administrator has designated the special hazards areas applicable to the community.

Special Flood Hazard Area (SFHA) shall mean the areas of a flood insurance rate map which the FIRM identifies as, including but not limited to, Zones A, AO, AH, A1-A30, AE, A99, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V, V1-V30, and VE.

- C. With respect to the peril of Named Windstorm this Company shall not be liable, per occurrence for more than its proportion of USD500,000,000. In the event of loss, damage or destruction to property at the Aventura Mall (19501-19575 Biscayne Blvd, Aventura, Florida 33180) and any other location insured under this policy involved in the same Named Windstorm occurrence, it is agreed that the first USD350,000,000 of limit for Named Windstorm shall be allocated to the Aventura Mall.
- D. With respect to the peril of Earthquake as defined in Section 13, this Company shall not be liable, per occurrence and in the aggregate for this Policy Term, for more than its proportion of USD500,000,000.
- E. With respect to the Land & Water Contaminant or Pollution Cleanup, Removal and Disposal, this Company shall not be liable, per occurrence and in the aggregate for this Policy Term, for more than its proportion of USD5,000,000
- F. USD100,000,000 per Accident per Machinery Breakdown
- G. USD100,000,000 per occurrence Leasehold Interest
- H. USD200,000,000 per occurrence Course of Construction including Soft Cost
- I. USD100,000,000 per occurrence Newly Acquired Property (for the first 10 days from acquisition);
- J. USD50,000,000 per occurrence Newly Acquired Property (for 11-90 days from the date of acquisition), then covered under Miscellaneous Unnamed Locations;
- K. USD50,000,000 per occurrence Miscellaneous Unnamed Locations
- L. USD30,000,000 per occurrence Errors and Omissions

- M. USD30,000,000 per occurrence Accounts Receivable
- N. USD10,000,000 per occurrence Valuable Papers
- O. USD2,500,000 per occurrence Loss Adjustment Expenses
- P. USD5,000,000 per conveyance as respects property in transit
- Q. USD50,000,000 Trees, Plants and Shrubs
- R. USD50,000,000 per occurrence Service Interruption – Property Damage & Time Element
- S. USD5,000,000 per occurrence Radioactive Contamination
- T. USD5,000,000 per occurrence Royalties
- U. Greater of 25% of loss or USD75,000,000 per occurrence Debris Removal of Insured Property
- V. USD5,000,000 Expediting Expenses
- W. USD50,000,000 Not to Exceed 60 Days per occurrence Ingress / Egress
- X. USD50,000,000 Not to Exceed 60 Days per occurrence Civil or Military Authority
- Y. USD25,000,000 per occurrence Contingent Time Element for Tier 1 suppliers and Tier 1 receivers - Property Damage and Time Element Combined
- Z. USD5,000,000 per occurrence Contingent Time Element for Tier 2 suppliers and Tier 2 receivers - Property Damage and Time Element Combined
- AA. USD20,000,000 Leader Property
- BB. USD1,000,000 per occurrence Arson Reward
- CC. USD10,000,000 per occurrence Fine Arts
- DD. USD5,000,000 per occurrence Emergency Vacating Expenses
- EE. USD2,500,000 per occurrence Locks & Keys
- FF. USD5,000,000 per occurrence Tenant Relocation Expenses
- GG. USD30,000,000 per occurrence and in the aggregate for this Policy Term Resulting Damage for Mold
- HH. USD2,500,000 per occurrence Upgrade to Green Endorsement
- II. USD600,000,000 per occurrence Demolition and Increased Cost of Construction: Demolition Coverage A
- JJ. USD150,000,000 per occurrence Demolition and Increased Cost of Construction Coverage B

KK. USD150,000,000 per occurrence Demolition and Increased Cost of Construction Coverage C

LL. USD50,000,000 per occurrence Extra Expense

MM.USD50,000,000 per occurrence Fire Brigade Charges and Extinguishing Expenses

NN. USD50,000,000 per occurrence for Defense Costs

#### **4. DEDUCTIBLES**

All losses, damages or expenses arising out of any one occurrence shall be adjusted as one loss, and from the amount of such adjusted loss shall be deducted USD50,000 except:

- A. USD500,000 Combined Property Damage and Business Interruption for the peril of Flood for buildings wholly or partially located within a 100 Year Flood area for which a claim is being made. However, this deductible shall not apply to ensuing loss or damage not otherwise excluded herein.

In the event that the Insured maintains underlying insurance through the National Flood Insurance Program, it is agreed that this policy excludes the peril of flood to the extent of recovery under such National Flood Insurance Policy(s). Should the amount of loss payable under such National Flood Insurance Policy(s) exceed the applicable flood deductible under this policy, then no deductible shall apply hereunder. However, if the amount to be paid under such National Flood Insurance Policy(s) is less than the applicable flood deductible under this policy, then the amount to be deducted hereunder shall not exceed the difference between the amount to be paid under the Insured's National Flood Insurance Policy(s) and the applicable flood deductible under this policy. Insurance maintained through the National Flood Insurance Program shall be considered Underlying Insurance.

- B. USD100,000 per occurrence for loss from the peril of Flood in all other areas. However, this deductible shall not apply to ensuing loss or damage not otherwise excluded herein.
- C. 5% of the actual value per unit of insurance at the time when such loss occurs at locations within the State of California for which a claim is being made for the peril of Earthquake subject to a minimum of USD100,000 per occurrence. However, this deductible shall not apply to ensuing loss or damage not otherwise excluded herein.
- D. USD100,000 per occurrence for loss from the peril of Earthquake for all other locations. However this deductible shall not apply to ensuing loss or damage not otherwise excluded herein.
- E. 5% of the reported value per unit of insurance at the time when such loss occurs at locations within the State of Florida; and,

3% at locations within 1<sup>st</sup> tier counties in the States of North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana and Texas

for the peril of Named Windstorm for which a claim is being made subject to a minimum of USD250,000 per occurrence, and a maximum of USD25,000,000 in any one occurrence. However, this deductible shall not apply to ensuing loss or damage not otherwise excluded herein.

- F. USD50,000 per occurrence for interruption by Civil Authority, for all perils.
- G. 12 Hour Waiting Period for combined property damage and Time Element per occurrence for Service Interruption for all perils.
- H. USD50,000 per occurrence for Ingress/Egress for all perils.
- I. USD10,000 per occurrence Fine Arts
- J. USD10,000 per occurrence Machinery Breakdown

The following shall be considered a separate unit of insurance: (a) each separate building or structure; (b) the improvements and betterments within each building (c) the contents of each separate building or structure; (d) property in each yard; (e) rental value; (f) business interruption as defined in Clause 6.B. for the twelve month period immediately following the loss.

If two or more deductible amounts in this policy apply to a single occurrence, the total to be deducted shall not exceed the largest deductible.

In any occurrence where loss or damage is caused by more than one peril insured against under this policy, the Insured shall have the right to separate the loss amount by peril for the purposes of application of the deductible(s) specified in this section, notwithstanding the above reference to two or more deductibles and the policy limits.

As respects theft, the term Occurrence as referred to elsewhere within the policy means the sum total of all losses of covered property, during the Policy Period, resulting from one or more concealed acts committed by one person or more than one person acting in unison to the extent such loss is not otherwise excluded under this policy.

The deductible amounts specified above shall not apply to general average contributions, salvage charges and sue and labor expenses.

The New Madrid earthquake zone is defined by locations in the following:

State	Tier 1 Counties
Arkansas	Clay, Craighead, Crittenden, Cross, Greene, Independence, Jackson, Lawrence, Lee, Mississippi, Phillips, Poinsett, Randolph, Sharp, St. Francis
Illinois	Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Massac, Perry, Pope, Pulaski, Saline, Union, White, Williamson
Kentucky	Ballard, Caldwell, Calloway, Carlisle, Crittenden, Fulton, Graves, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Muhlenberg, Union, Webster
Mississippi	Coahoma, DeSoto, Panola, Quitman, Tallahatchie, Tate, Tunica
Missouri	Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Madison, Mississippi, New Madrid, Pemiscot, Perry, Ripley, Scott, Stoddard, Wayne
Tennessee	Benton, Carroll, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Henderson, Henry, Humphreys, Lake, Lauderdale, Madison, Obion, Shelby, Tipton, Weakley

The Pacific Northwest Earthquake Zone is defined by locations in the following:

State	Tier 1 Counties
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Washington	Clallam, Island, Jefferson, King, Kitsap, Mason, Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom
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The First (1<sup>st</sup>) Tier counties areas are defined by locations in the following counties and/or parishes:

State	Tier 1 Counties
Alabama	Baldwin, Mobile
Florida	Entire State
Georgia	Bryan, Camden, Chatham, Glynn, Liberty, McIntosh
Hawaii	Entire State
Louisiana	Cameron, Iberia, Jefferson, Lafourche, Orleans, Plaquemines, St. Mary, St. Bernard, St. Tammany, Terrebonne, Vermilion
Mississippi	Hancock, Harrison, Jackson
North Carolina	Beaufort, Brunswick, Carteret, Craven, Dare, Hyde, New Hanover, Onslow, Pamlico, Pender
South Carolina	Beaufort, Berkley, Charleston, Colleton, Georgetown, Horry, Jasper
Texas	Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Harris, Jackson, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refugio, San Patricio, Victoria, Willacy
Virginia	Accomack, Northampton, Virginia Beach City, Chesapeake, Gloucester, Hampton City, Lancaster, Mathews, Middlesex, Newport News, Norfolk City, Northumberland, Poquoson City, Portsmouth city, Suffolk City, York

## 5. LOSS PAYABLE

Loss, if any, shall be adjusted with and payable to Turnberry Associates or order, whose receipt shall constitute a release in full of all liability under this policy with respect to such loss.

## 6. TERRITORY

This policy covers loss occurring anywhere within the 50 states comprising the United States of America and the District of Columbia.

## 7. COVERAGE

Except as hereinafter excluded, this policy covers the following while at or within 2,500 feet of a location on the schedule of locations on file with the company and including newly acquired locations and miscellaneous unnamed locations or while in transit within this policy's territory:

### A. Real and Personal Property

- (1) The interest of the Insured in all real and personal property including but not limited to property owned, used, leased or intended for use by the Insured, or hereafter constructed, erected, installed, or acquired, including while in course of construction, erection, installation, and assembly. In the event of loss or damage, this Company agrees to accept and consider the Insured as sole and unconditional owner of improvements and betterments, notwithstanding any contract or leases to the contrary.
- (2) The interest of the Insured in real and personal property of others in the Insured's care, custody, or control.



- (3) Real and Personal Property which the Insured is responsible for as imposed by law upon the Insured, assumed by contract or specific agreement prior to loss for direct damage of the type insured against.
- (4) At the option of the Insured, personal property of the Insured's officials, employees and representatives while on the premises of the Insured except motor vehicles licensed for highway use. This insurance shall then act as primary insurance.
- (5) Contractors' and vendors' interest in property covered to the extent of the Insured's liability imposed by law or assumed by written contract. Such contractors or vendors interest shall not extend to any time element coverage provided under this policy.
- (6) Newly Acquired Locations: Notwithstanding the above provision that a location must be on a schedule of locations in order to be covered, this policy does insure, subject to the Newly Acquired Locations limit of liability, real & personal property (including business interruption, extra expense, rental value, royalties, and time element extensions) at any location rented, leased, purchased, or acquired by the Insured after the inception date of this policy from the date of acquisition of such property for the period(s) of time shown under Section 2 Limits of Liability, until reported to the company, or until agreement is reached that the property will not be covered by this policy, whichever is soonest.

Any acquired locations during the term of insurance which fall under this coverage extension shall be added at rates to be negotiated with the Company at the time of acquisition, but not to exceed the current Company composite rate at inception of this policy.

In turn, any divestiture of locations during the term of insurance shall be deleted at rates to be negotiated with the Company at the time of divestiture, but not to exceed the current Company composite rate at inception of this policy.

- (7) Miscellaneous Unnamed Locations: Notwithstanding the above provision that a location must be on a schedule of locations in order to be covered, this policy does insure, subject to the Miscellaneous Unnamed Locations limit of liability, Unnamed Locations (including business interruption, extra expense, rental value, royalties, and time element extensions) that are located within the policy's territory.

A Miscellaneous Unnamed Location is a location that is not listed on the schedule of locations reported to and on file with the company; is not a Newly Acquired Location nor covered under the terms of the Errors and Omissions coverage extension and is a building, yard, dock, wharf, pier or bulkhead (or any group of the foregoing) bounded on all sides by public streets, clear land space or open waterways, each separation not less than fifty (50) feet wide. Any bridge or tunnel crossing such street, space or waterway will render such separation inoperative for the purposes of defining an Unnamed Location.

## **B. Business Interruption**

- (1) Loss of business income resulting from necessary interruption of business conducted by the Insured, whether total or partial, and caused by loss, damage, or destruction covered herein during the term of this policy to real and personal property as described in Clause 6.A.

By way of clarification, this policy shall also cover the loss of fee income to the Insured as stipulated under a management and/or related services agreement between the Insured and

another party which is not realizable due direct physical to loss, damage, or destruction covered herein during the term of this policy to locations managed by the Insured and covered under this policy.

- (2) If such loss occurs during the term of this policy, it shall be adjusted on the basis of ACTUAL LOSS SUSTAINED by the Insured, consisting of the net profit which is thereby prevented from being earned and charges and expenses only to the extent that these must necessarily continue during the interruption of business including 365 days Ordinary Payroll and only to the extent such charges and expenses would have been earned had no loss occurred.

"Ordinary payroll" is defined to be the entire payroll expense for all employees of the Insured except officers, executives, department managers, employees under contract, and other important employees as determined by the Insured.

- (3) In the event of direct physical loss, damage, or destruction covered herein to property as described in Clause 6.A, which results in an interruption of research and development activities which in themselves would not have produced income during the indemnity period, this policy shall cover the actual loss sustained of the continuing fixed charges and expenses, including 365 days Ordinary Payroll directly attributable to such research and development activities.
- (4) However, this Company shall not be liable under this Clause B. for any loss resulting from damage to or destruction of finished stock nor for the time required to reproduce said finished stock. Finished stock shall mean stock manufactured by the Insured which in the ordinary course of the Insured's business is ready for packing, shipment, or sale.
- (5) Resumption of Operations: If the Insured, by reasonable means within its control, could reduce the loss resulting from the interruption of business:
- (a) by a complete or partial resumption of operation of the property insured, whether damaged or not; or
  - (b) by making use of available stock, merchandise, or other property;
- such reduction shall be taken into account in arriving at the amount of loss hereunder.
- (6) Experience of the Business:
- (a) In determining the amount of net profit, charges and expenses covered hereunder for the purpose of ascertaining the amount of loss sustained, due consideration shall be given to the experience of the business before the date of damage or destruction and to the probable experience thereafter had no loss occurred to real or personal property as described in Clause 6.A.
  - (b) With respect to alterations, additions, and property while in the course of construction, erection, installation, or assembly, due consideration shall be given to the available experience of the business after completion of the construction, erection, installation, or assembly.

### **C. Extra Expense**

- (1) Extra Expense incurred by the Insured resulting from direct physical loss, damage, or destruction covered herein during the term of this policy to real or personal property as described in Clause 6.A.
- (2) "Extra Expense" means the reasonable and necessary excess of the total cost chargeable to the operation of the Insured's business over and above the total cost that would normally have been incurred to conduct the business had no loss or damage occurred.

#### **D. Rental Value**

- (1) Rental Value loss sustained by the Insured resulting from direct physical loss, damage, or destruction covered herein during the term of this policy to real and personal property as described in Clause 6.A. but not exceeding the reduction in rental value less charges and expenses which do not necessarily continue.
- (2) "Rental Value" is defined as the sum of:
  - (a) the total anticipated gross rental income from tenant occupancy of the described property as furnished and equipped by the Insured, including taxes, rent based on percentage of sales, and other expenses paid by the tenants in respect of the leased premises; and
  - (b) the amount of all charges which are the legal obligation of the tenant(s) and which would otherwise be obligations of the Insured; and
  - (c) the fair rental value of any portion of said property which is occupied by the Insured.
- (3) Experience of the Business:
  - (a) In determining the amount of rental value covered hereunder for the purposes of ascertaining the amount of loss sustained, due consideration shall be given to the rental experience before the date of damage or destruction and to the probable experience thereafter had no loss occurred to real and personal property as described in Clause 6.A.
  - (b) With respect to alterations, additions, and property while in the course of construction, erection, installation, or assembly, due consideration shall be given to the available rental experience of the business after completion of the construction, erection, installation, or assembly.

#### **E. Royalties**

- (1) Loss of income to the Insured under royalty, licensing fees, or commission agreements between the Insured and another party which is not realizable due to loss, damage, or destruction by any of the perils covered herein during the term of this policy to property of the other party.
- (2) If such loss occurs during the term of this policy, it shall be adjusted on the basis of ACTUAL LOSS SUSTAINED of such income referred to in paragraph 1 above, which would have been earned had no loss occurred.

- (3) Resumption of Operations: The Insured shall influence, to the extent reasonably possible, the party with whom the agreement described in paragraph 1 above has been made to use any other machinery, supplies or locations in order to resume business so as to reduce the amount of loss hereunder, and the Insured shall cooperate with that party in every reasonable way to effect this, but not financially unless such expenditures shall be authorized and paid by this Company.
- (4) Experience of the Business: In determining the amount of income derived from the agreement(s) described in paragraph 1 above for the purpose of ascertaining the amount of loss sustained, due consideration shall be given to the amount of income derived from such agreement(s) before the date of damage or destruction and to the probable amount of income thereafter had no loss occurred to real and personal property of the type insured under this policy of such other party.

#### **F. Soft Costs**

Soft Costs, as hereinafter described, incurred by the Insured and caused by direct physical loss, damage, or destruction covered herein during the term of this policy to real or personal property as described in Clause 6.A.

Recovery in the event of loss hereunder shall be limited to such necessary soft costs over and above those costs which would have been incurred by the Insured had no loss occurred.

For the purposes of this insurance, “soft costs” are defined as those costs over and above the costs which normally have been incurred by the Insured, including, but not limited to:

- (i) the amount of actual interim or construction financing interest, including loan fees and other one time charges incurred to negotiate a construction loan and/or extend the existing one;
- (ii) realty taxes and ground rent if any;
- (iii) advertising and promotional expenses;
- (iv) cost of additional commissions (including but not limited to real estate commissions);
- (v) architects, surveyors, legal, consulting engineers, or other fees not otherwise covered under this policy;
- (vi) project administration expense;
- (vii) insurance premiums; (other than Insurance premium for this policy)
- (viii) finder’s fee refunds.

#### **G. Time Element Extensions**

- (1) This policy, subject to all provisions and without increasing the limits of this policy, is extended to cover the actual loss sustained by the Insured resulting from necessary interruption of the business conducted by the Insured, whether partial or total, caused by direct physical loss, damage or destruction covered herein during the term of this policy to:

- (a) Service Interruption: real and personal property of the type described in clause 6.A. and not otherwise excluded and owned, leased or used by electrical, steam, gas, water, sewer, telecommunications or any other utility or service, transmission and distribution lines located within 50 miles of the Insured's premises and related plants, substations and equipment situated on or outside of the premises; and,

Service Interruption Property Damage:

Physical loss or damage at a described location resulting from the interruption of electrical, steam, gas, water, sewer, telecommunications or any other utility or service, transmission and distribution lines and related plants, substations and equipment situated on or outside of the premises.

The company will not be liable for such loss or damage unless the period of recovery exceeds the period of time shown as the waiting period described in Section 3. Deductibles. Upon the period of recovery exceeding the waiting period, the company shall then be liable for such loss or damage for the entire period of recovery and the applicable deductible per Section 4 will apply. The period of recovery shall mean the period starting with the time when the interruption occurs and ending when with due diligence and dispatch the service could be wholly restored.

The company will not be liable if the interruption of such utility or service is caused directly or indirectly by the failure of the Insured to comply with the terms and conditions of any contracts the Insured has for the supply of such specified utilities or services nor as a result of the deliberate turning off of power during an industrial dispute.

The Insured will notify the suppliers of utilities or services of any interruption of such services.

- (b) Contingent Time Element: the type of property insured hereunder that wholly or partially prevents any Tier 1 supplier or Tier 2 supplier of goods and/or services to the Insured from rendering their goods and/or services, or property that wholly or partially prevents any Tier 1 receiver or Tier 2 receiver of goods and/or services from the Insured from accepting the Insured's goods and/or services, such supplier or receiver to be located anywhere in the world; with the exception of loss or damage to locations in a Prohibited Jurisdiction. Prohibited Jurisdiction means any country or political subdivision, outside the United States of America and its territories and possessions, in which we are not allowed to insure risks and where doing so would violate the insurance laws and regulations of such country or political subdivision.

The following definitions apply to the above clause 6.G.(1)(b):

Tier 1 supplier means a supplier that supplies products or services directly to you. Tier 2 supplier means a supplier that supplies products or services directly to your Tier 1 supplier Tier 1 receiver means a customer that receives products or services directly from you.

Tier 2 receiver means a customer that receives products or services from your Tier 1 receiver.

- (c) Impounded Water: dams, reservoirs, or equipment connected therewith when water, used as a raw material or used for power or for other purposes, stored behind such dams or reservoirs is released from storage, at an insured location, causes an interruption of business as a result of lack of water supply from such sources, but not for than 30 consecutive days after the dam, reservoir, or connected equipment is rebuilt;
- (d) Leader Property: This policy, subject to all provisions and without increasing the limits of this policy, also insures against the Actual Loss Sustained, as insured by this policy resulting from physical damage to or destruction by causes of loss insured against, to:

Leader Property: property not owned or operated by the Insured, located within 25 miles of an Insured Location, statutory mile of the insured, which attracts business to the Insured as respects for Marriott Courtyard Orlando. All other locations subject to within 10 miles of an Insured Location, statutory miles of the insured, which attracts business to the Insured.

It is further agreed that the length of time for which loss may be claimed unless otherwise modified or limited shall be based upon the Period of Liability described in Clause 6.H.(1)(a), as well as the Extended Period of Liability Extension described in Clause 6.H.(1) (b).

The provisions of this clause shall also extend to include the Time Element Coverage Extensions described under clauses 6.G.(1)(b), Contingent Time Element, 6.G.(1)(a) Service Interruption.

- (2) Interruption by Civil or Military Authority: This policy is extended to cover the actual loss sustained during the period of time when access to real or personal property is impaired by order or action of civil or military authority issued as a direct result of physical damage to property of the type insured against under this policy to property within 5 miles of any location on schedule on file with the company, Newly Acquired Location or Miscellaneous Unnamed Location to the kind of property not excluded by this policy.
- (3) Ingress/Egress: This policy is extended to cover the actual loss sustained during the period of time when access to or egress from real or personal property is impaired as a direct result of physical damage to property of the type insured against under this policy to property within 5 miles of any location on schedule on file with the company, Newly Acquired Location or Miscellaneous Unnamed Location to the kind of property not excluded by this policy.

Time Element meaning business interruption, extra expense, rental expense, royalties, and time element extensions described herein.

#### **H. Provisions Applicable to Business Interruption, Extra Expense, Rental Value Royalties and Soft Cost Coverages**

- (1) Period of Recovery: The length of time for which loss may be claimed:
  - (a) shall not exceed such length of time as would be required with the exercise of due diligence and dispatch to rebuild, repair, or replace the property that has been destroyed or damaged;

(b) and, such additional length of time to restore the Insured's business to the condition that would have existed had no loss occurred, commencing with the later of the following dates:

(i) the date on which the liability of the Company for loss or damage would otherwise terminate; or

(ii) the date on which repair, replacement, or rebuilding of the property that has been damaged is actually completed;

but in no event for more than eighteen (18) months from said later commencement date;

(c) with respect to alterations, additions and property while in the course of construction, erection, installation, or assembly shall be determined as provided in subparagraph (a) above, but such determined length of time shall be applied to the experience of the business after the business has reached its planned level of production or level of business operations;

(d) shall commence with the date of such loss or damage and shall not be limited by the date of expiration of this policy or cancellation date.

(2) Special Exclusions: This section of the policy does not insure against any increase of loss which may be occasioned by planned or scheduled shutdowns, the suspension, lapse, or cancellation of any, license, contract, or order lease (except as provided for in Leasehold Interest coverage extension); nor for any increase of loss due to interference at the Insured's premises by strikers or other persons with rebuilding, repairing, or replacing the property damaged or destroyed, or with the resumption or continuation of business, or with the reoccupancy of the premises.

(3) Expense to Reduce Loss: This policy also covers such expenses incurred for the purpose of reducing any loss under this policy; such expense shall not exceed the amount by which the loss is thereby reduced.

(4) Resumption of Operations: If the Insured can, by reasonable means within its control, the Insured will do all things possible to reduce the loss from interruption of business:

(a) by a complete or partial resumption of operation of the property insured, whether damaged or not; or,

(b) by making use of available stock, merchandise, or other property;

such reduction shall be taken into account in arriving at the amount of loss hereunder.

(5) Idle Periods: This policy does not insure against Time Element loss for any period during which the business would not have or could not have been conducted for any reason other than physical loss or damage of the type insured against.

## **I. Transit**

(1) Property in transit within and between the territorial limits of this policy, including the coastal waters thereof, by any means of conveyance, from the time the property is moved



for purpose of loading and continuously thereafter while awaiting and during loading and unloading and in temporary storage, including temporary storage on any conveyance intended for use for any outbound or used for inbound shipment, including during deviation and delay, until safely delivered and accepted into place of final destination.

- (2) This insurance is extended to cover direct physical loss, damage or destruction by an insured peril to property:
  - (a) sold and shipped by the Insured under terms of Free On Board point of origin or other terms usually regarded as terminating the shipper's responsibility short of points of delivery;
  - (b) arising out of any unauthorized person(s) representing themselves to be the proper party(ies) to receive goods for shipment or to accept goods for delivery;
  - (c) occasioned by the acceptance by the Insured, by its agents, or by its customers of fraudulent bills of lading, shipping and delivery orders, or similar documents;
  - (d) at the Insured's option, which is incoming to the Insured.
- (3) (a) The Insured may waive right(s) of recovery against private, contract, and common carriers and accept bills of lading or receipts from carriers, bailees, warehousemen, or processors limiting their liability, but this transit insurance shall not inure to the benefit of any carrier, bailee, warehouseman, or processor.
- (b) With respect to shipments made under subparagraphs 2(a) and 2(d) above, this Company agrees to waive its rights of subrogation against consignees at the option of the Insured.
- (4) The Insured is not to be prejudiced by any agreements exempting lightermen from liability.
- (5) Seaworthiness of any vessel or watercraft and airworthiness of any aircraft are admitted between this Company and the Insured.

#### **J. Accounts Receivable**

- (1) All sums due the Insured from customers, provided the Insured is unable to effect collection thereof as the direct result of loss of or damage to records of accounts receivable;
- (2) Interest charges on any loan to offset impaired collections pending repayment of such sums made uncollectible by such loss or damage;
- (3) Collection expense in excess of normal collection cost and made necessary by such loss or damage;
- (4) Other expenses, when reasonably incurred by the Insured in reestablishing records of accounts receivable following such loss or damage.

For the purpose of this insurance, credit card company charge media shall be deemed to represent sums due the Insured from customers, until such charge media is delivered to the credit card company.



When there is proof that a loss of records of accounts receivable has occurred but the Insured cannot more accurately establish the total amount of accounts receivable outstanding as of the date of such loss, such amount shall be computed as follows:

- (a) The monthly average of accounts receivable during the last available twelve months shall be adjusted in accordance with the percentage increase or decrease in the twelve months average of monthly gross revenues which may have occurred in the interim.
- (b) The monthly amount of accounts receivable thus established shall be further adjusted in accordance with any demonstrable variance from the average for the particular month in which the loss occurred, due consideration being given to the normal fluctuations in the amount of accounts receivable within the fiscal month involved.

There shall be deducted from the total amount of accounts receivable, however established, the amount of such accounts evidenced by records not lost or damaged, or otherwise established or collected by the Insured, and an amount to allow for probable bad debts which would normally have been uncollectible by the Insured.

#### **K. Leasehold Interest**

- (1) Pro rata proportion from the date of loss to expiration date of the lease (to be paid without discount) on the Insured's interest in:
  - (a) the amount of bonus paid by the Insured for the acquisition of the lease not recoverable under the terms of the lease;
  - (b) improvements and betterments to real property which are not covered under any other section of this policy;
  - (c) the amount of advance rental paid by the Insured and not recoverable under the terms of the lease;

when property is rendered wholly or partially untenable by any covered loss during the term of this policy and the lease is canceled by the party not the Named Insured under this policy in accordance with the conditions of the lease or by statutory requirements of the appropriate jurisdiction in which the damaged or destroyed property is located; and

- (2) (a) "The Interest of the Insured as Lessee or Lessor" when property is rendered wholly or partially untenable by any covered loss during the term of this policy and the lease is canceled by the party not the Named Insured by this policy in accordance with the conditions of the lease or by statutory requirements of the appropriate jurisdiction in which the damaged or destroyed property is located.
  - (b) "The Interest of the Insured as Lessee or Lessor" as referred to herein shall be paid for the first three months succeeding the date of the loss and the "Net Lease Interest" shall be paid for the remaining months of the unexpired lease.
- (3) Definitions:

The following terms, wherever used in this section shall mean::

- (a) "The Interest of the Insured as Lessee" is defined as:

- (i) the excess of the rental value of similar premises over the actual rental payable by the lessee (including any maintenance or operating charges paid by the lessee) during the unexpired term of the lease; and
  - (ii) the rental income earned by the Insured from sublease agreements, to the extent not covered under any other section of this policy, over and above the rental expenses specified in the lease between the Insured and the lessor.
- (b) "The Interest of the Insured as Lessor" is defined as the difference between the rents payable to the lessor under the terms of the lease in effect at the time of loss and the actual rent collectible by the lessor during the unexpired term of the lease provided the lease is canceled by the lessee, to the extent not covered under any other section of this policy.
- (c) "Net Lease Interest" is defined as that sum, which placed at 8% interest compounded annually will be equivalent to the "The Interest of the Insured as Lessee or Lessor."
- (4) This Company shall not be liable for any increase of loss which may be occasioned by the suspension, lapse or cancellation of any license or by the Named Insured exercising any option to cancel the lease. Furthermore, the Named Insured shall use due diligence including all things reasonably practicable to diminish loss under this clause.

## **8. COVERAGE EXTENSIONS**

### **A. Demolition and Increased Cost of Construction**

In the event of direct physical loss or damage to building or structures insured under this policy that causes the enforcement of any law, ordinance, governmental directive or standard in force at the time of the direct physical loss or damage regulating the construction, repair, use, or occupancy of property, this Company shall be liable for:

- (1) Under Demolition Coverage A: the proportion that the value of the undamaged part of the property bore to the value of the entire property prior to the loss
- (2) Under Demolition Coverage B: The cost of demolishing the undamaged property including the cost of clearing the site.
- (3) Under Demolition coverage C: increased cost of repair or reconstruction of the damaged and undamaged property on the same or another site, limited to the cost that would have been incurred in order to comply with the minimum requirements of such law or ordinance regulating the repair or reconstruction of the damaged property on the same site. However, this Company shall not be liable for any increased cost of construction loss unless the damaged property is actually rebuilt or replaced;

### **B. Debris Removal**

In the event of direct physical loss or damage to the property insured hereunder, this policy (subject otherwise to its terms, conditions and limitations, including but not limited to any applicable deductible) also insures debris removal, as stated in Section 3, Limits of Liability:

- (1) expenses reasonably incurred in removal of debris of the property insured hereunder destroyed or damaged from an insured location;
- (2) expenses reasonably incurred in removal of debris of the property insured hereunder which is destroyed or damaged while in transit;
- (3) expenses reasonably incurred in removal of debris of property not insured under this policy blown onto the insured location by wind or deposited onto the insured location by flood;
- (4) cost of cleanup at an insured location made necessary as a result of such direct physical loss or damage;

provided that this policy does not insure against the costs of decontamination or removal of land or water or the contaminant on or in land or water except as provided in Clause 8. N. Land and Water Contaminant or Pollutant Cleanup, Removal and Disposal.

It is a condition precedent to recovery under this extension that the Company shall have paid or agreed to pay for direct physical loss or damage to the property insured hereunder unless such payment is precluded solely by the operation of any deductible and that the Insured shall give notice to the Company of the intent to claim for the cost of removal of debris or cost of cleanup NO LATER THAN 24 MONTHS AFTER THE DATE OF SUCH PHYSICAL LOSS OR DAMAGE.

#### **C. Emergency Vacating Expenses**

This policy is extended to cover the reasonable expenses incurred by the Insured when an authorized governmental agency or other similar authority orders the emergency evacuation of:

- (1) Residents and tenants; or
- (2) Lawful occupants;

From an insured building as a result of an immediately impending insured peril that threatens imminent physical danger or loss of life to such occupants.

No coverage is provided if the vacating results from:

- (1) A planned evacuation drill;
- (2) Evacuation of any resident or tenant because of a medical condition(s); or
- (3) A false alarm.

#### **D. Tenant Relocation Expense**

This policy is extended to cover relocation expenses incurred by the Insured to relocate:

- (1) Tenants; or
- (2) Lawful occupants;

To other quarters in the shortest possible time when rented space at a described location are made uninhabitable as a direct result of physical loss or damage from a peril insured by this policy.

Coverage includes the reasonable and necessary expense of:

- (i) Packing, sorting, and transportation cost for personal property;
- (ii) Reestablishing new utility services, less refunds from discontinued services, at the damage location;
- (iii) Searching for new quarters;
- (iv) Disconnecting and reconnecting fixtures and equipment; and
- (v) Storage costs while awaiting possession of other quarters or restoration of existing quarters.

No coverage is provided for:

- (a) Loss caused by the termination of a lease or other agreement;
- (b) Security deposits or other payments made to the landlord or lessors of the new quarters; or
- (c) Down payments, legal fees and closing costs for the purchase of new quarters.

#### **E. Locks & Keys**

This policy is extended to cover the reasonable and necessary expense incurred by the insured for replacing:

- (1) Locks; and
- (2) Keys;

Resulting from insured physical loss or damage to an insured location.

Coverage includes the actual cost to:

- (i) Replace;
- (ii) Adjust; or
- (iii) Reprogram;

Locks to accept new keys or entry codes.

#### **F. Arson Reward**

This policy is extended to cover payment of any reward offered on the Insured's behalf for information that leads to conviction of the perpetrator(s) of:

- (1) Arson (fire); and

(2) Vandalism;

To insured property that sustains physical loss or damage insured by this policy.

The company's total liability for any one occurrence will not exceed the Limit of liability shown in the declarations. The company's payment of this reward will not increase regardless of the number of informants providing information that leads to a conviction.

#### **G. Expediting Expense**

This policy covers the reasonable extra cost of temporary repair and/or replacement and of expediting the repair and/or replacement of damaged property insured hereunder, including, but not limited to, overtime and express freight or other rapid means of transportation. However, this Company shall not be liable under this clause for temporary rental of property or temporary repair of damaged property.

#### **H. Loss Adjustment Expenses**

This policy is extended to include expenses incurred by the Insured, or by the Insured's representatives for preparing and certifying details of a claim resulting from a loss which would be payable under this policy. However, this Company shall not be liable under this clause for expenses incurred by the Insured in utilizing the services of a public adjuster or attorney.

This policy is extended to include reasonable fees charged by the Property Manager for handling the claim. However, this Company shall not be liable under this Clause for more than the amount shown in Section 3, Limit of Liability.

#### **I. Fire Brigade Charges and Extinguishing Expenses**

This policy covers the following expenses resulting from a covered loss:

- (1) fire brigade charges and any extinguishing expenses which the Insured incurs;
- (2) loss and disposal of fire extinguishing materials expended.

#### **J. Defense Costs**

This policy, subject to all of its provisions, also insures the costs and fees to defend any claim or suit against the Insured and/or its directors, officers and/or employees alleging physical loss or damage as insured against to property of others in the care, custody or control of the Insured to the extent of the Insured's liability therefore, even if such claim or suit is groundless, false or fraudulent; but the Company may without prejudice make such investigation, negotiation or settlement of any such claim or suit as it deems expedient.

#### **K. Errors and Omissions:**

If physical loss or damage is not payable under this Policy solely due to an error or unintentional omission:

- (1) in the description of where the insured property is physically located;

(2) to include any location:

- (i) owned, rented or leased by the Insured on the effective date of this Policy; or,
- (ii) purchased, rented or leased by the Insured during the term of this policy; or
- (iii) that result in cancellation of the of the property insured under this Policy;

this Policy covers such physical loss or damage, to the extent that it would have provided coverage had such error or unintentional omission not been made.

#### **L. Land and Water Contaminant or Pollution Cleanup, Removal & Disposal**

This policy covers the reasonable and necessary, including examination and detection, cost for cleanup, removal, and disposal of contaminants or pollutants from land and water at an insured location under this policy if the release, discharge or dispersal of contaminants or pollutants is a direct result of insured physical loss or damage to insured property.

This policy does not cover the cost to cleanup, remove and dispose of contaminants or pollutants from such property:

- (1) at any location insured for personal property only when the insured fails to give written notice of loss to the company within 12 months after inception of the loss.

### **9. PERILS INSURED AGAINST**

This policy insures against all risk of direct physical loss of or damage to property insured herein including general average, salvage and all other charges on shipments covered hereunder, except as hereinafter excluded.

### **10. PERILS EXCLUDED**

This policy does not insure:

- A. any dishonest act, including but not limited to theft committed alone or in collusion with others at any time:

- (1) by an Insured or any proprietor, partner, director, trustee, officer, or employee of and an Insured;
- (2) by any proprietor, partner, director, trustee, or officer of any business entity (other than common carrier) engaged by the Insured to do anything in connection with the property insured under this policy.

This policy does insure acts of physical loss or damage intentionally caused by an employee of an Insured or any individual specified in section b above, and done without the knowledge of the Insured. In no event does this policy cover loss by theft by any individual specified in section a or b above

- B. against the cost of making good, defective design or specifications, faulty material, or faulty workmanship; however, this exclusion shall not apply to direct physical loss or damage resulting from such defective design or specifications, faulty material, or faulty workmanship;

- C. against errors in processing or manufacture of the Insured's product unless direct physical loss or damage not otherwise excluded ensues and then this policy shall cover for such ensuing loss or damage;
- D. against wear and tear, or deterioration unless direct physical loss or damage not otherwise excluded ensues and then this policy shall cover for such ensuing loss or damage;
- E. against settling or shrinkage of walls, floors, foundations, or ceilings unless direct physical loss or damage not otherwise excluded ensues and then this policy shall cover for such ensuing loss or damage;
- F. against nuclear reaction, or nuclear radiation, or radioactive contamination, all whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate or remote; except:
  - (1) if fire ensues, liability is specifically assumed for direct loss by such ensuing fire but not including any loss due to nuclear reaction, nuclear radiation, or radioactive contamination;
  - (2) this Company shall be liable for loss or damage caused by sudden and accidental radioactive contamination including resultant radiation damage for each occurrence from material used or stored or from processes conducted on an insured premises provided at the time of loss there is neither a nuclear reactor capable of sustaining a nuclear fission in a self-supporting chain reaction nor any new or used nuclear fuel on the insured premises;
- G. (1) against warlike action in time of peace or war, including action in hindering, combating, or defending against an actual, impending, or expected attack:
  - (i) by any government or sovereign power (de jure or de facto) or by any authority maintaining or using military, naval, or air forces;
  - (ii) or by military, naval, or air forces;
  - (iii) or by an agent of any such government, power, authority, or forces;(2) against any weapon employing atomic fission or fusion;
- (3) against rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating, or defending against such occurrence;
- (4) against seizure or destruction by order of public authority, except destruction by order of public authority to prevent the spread of, or to otherwise contain, control or minimize loss, damage or destruction not otherwise excluded under this policy;
- (5) against risks of contraband or illegal trade.
- H. against insect animal or vermin damage unless direct physical loss or damage not otherwise excluded ensues and then this policy shall cover for such ensuing loss or damage;
- I. indirect or remote loss or damage;
- J. delay or loss of market;

- K. unexplained or mysterious disappearance;
- L. loss resulting from the voluntary parting with title or possession of property if induced by any fraudulent act or by false pretense;
- M. Changes in size, color, flavor, texture or finish;
- N. Changes of temperature (except to machinery or equipment) or changes in relative humidity, all whether atmospheric or not.

## **11. PROPERTY EXCLUDED**

This policy does not cover loss or damage to:

- A. Land; however, this exclusion shall not apply to the cost of reclaiming, restoring or repairing land improvements. Land improvements are defined as any alteration to the natural condition of the land by grading, landscaping, drainage, earthen dikes or dams, retaining walls, and additions to land such as pavements, roadways, drainage or similar works;
- B. Water, except water which is normally contained within any type of tank, piping system or other process equipment;
- C. Money and securities;
- D. Growing crops, standing timber, and animals except for research;
- E. Watercraft, aircraft, motor vehicles licensed for highway use, but this exclusion shall not apply to contractor's equipment;
- F. Waterborne shipments via the Panama Canal, and to and from Puerto Rico, the Virgin Islands, Hawaii, and Alaska;
- G. Export shipments after loading on board an overseas vessel or watercraft or after ocean marine insurance attaches, whichever occurs first; and import shipments prior to discharge from the overseas vessel or watercraft or until the ocean marine insurance terminates, whichever occurs last.
- H. Dams, dikes, bulkheads, reservoirs, pilings, piers, wharves, docks, and canals when not a structural part of a building.
- I. Tunnels and bridges used for licensed vehicular traffic which are not part of a structural part of a building, however, this exclusion shall not apply to Time Element Loss as provided under Section 7. Coverage, G. Time Element Extensions, (1)(c), (1)(d), (2) and (3).
- J. Off shore property including drilling rigs, underground mines, spacecraft, and satellites.
- K. Spacecraft, satellites, associated launch vehicles and any property contained therein
- L. Transmission and distribution lines situated beyond 1,000 feet of the Insured Location, except as provided under service Interruption.



M. Furs, jewelry, & precious metal.

## 12. VALUATION

In case of loss, the basis of adjustment shall be as follows:

### A. Stock

- (1) Raw Stock (materials and supplies in the state in which the Insured received them for conversion by the Insured into finished stock, including supplies consumed in such conversion or in the service rendered by the Insured) shall be valued at replacement cost at the time and place of loss.
- (2) Stock in process (raw stock which has undergone any aging, seasoning, or other processing by the Insured but which has not become finished stock) shall be valued at the Insured's selling price of finished stock at the time of loss, less any manufacturing expense not incurred by the Insured and less any discounts, rebates, and unincurred expenses to which the sales price would have been subject.
- (3) Finished stock (stock which in the ordinary course of the Insured's business is ready for packing, shipment or sale) and merchandise shall be valued at the Insured's selling price at the time of loss, less all discounts, rebates, and unincurred expenses to which such sales price would have been subject.

### B. Real and Personal Property

- (1) Buildings, structures, furniture and fixtures, machinery, equipment, improvements and betterments, shall be valued the cost to repair or replacement cost new, whichever is less on the same premises, as of the date of replacement.
- (2) Electronic Data Processing or control equipment and production machinery and equipment or any part thereof shall be valued at the cost to repair or replace new on the same premises as of the time of replacement except, that with respect to items for which replacement with identical property is impossible, the replacement cost shall be the cost of items similar to the destroyed property and intended to perform the same function but which may include technological advances.
- (3) Valuable papers and records shall be valued at the cost to reproduce the property as of the date of reproduction including the cost of gathering and/or assembling information;

"Valuable papers and records" are defined as written, printed, or otherwise inscribed documents and records, including but not limited to books, maps, films, drawings, abstracts, deeds, mortgages, micro-inscribed documents, manuscripts, and media and the data recorded thereon, but not including money and/or securities.

"Media" is defined as materials upon which data is recorded including, but not limited to, papertapes, cards, electronic memory circuits, and magnetic or optical storage devices. "Data" is defined as facts, concepts, or instructions in a form usable for communications, interpretation, or processing by automatic means. It includes computer programs.

The term "securities" shall mean all negotiable and non-negotiable instruments or contracts representing either money or other property, and includes revenue and other stamps in current use, tokens and tickets but does not include money.

- (4) Property of others which the Insured is required to insure to a stipulated value shall be valued at the replacement cost new as of the date of replacement, if replaced at the Insured's option; otherwise at the stipulated value.
- (5) Fine Arts shall be valued at the appraised value; or, if there is no appraisal, at the greater of the original acquisition cost or the market value at the time of the loss.
- (6) Other property not otherwise provided for, the cost to repair or replacement cost new, whichever is less on the same premises as of the date of replacement.
- (7) For property that qualifies as Historic Landmark status, the Insured shall have sole discretion as to the means by which said property shall be repaired, rebuilt, or replaced and shall include the cost to repair or replace with material of like kind and quality compatible to those originally used including the cost of skilled labor and/or authentic materials necessary to restore the property as nearly as possible to its original condition, but not to exceed the actual costs that would have been incurred in order to comply with Historical Landmark status requirements.
- (8) Permission is granted for the Insured to replace the damaged property with any property at the same site or at another site within the territorial limits of this policy, but recovery is limited to what it would cost to replace on same site. If property damaged or destroyed is not repaired, rebuilt or replaced within a reasonable period (being not more than 36 months) after the loss or damage, this Company shall not be liable for more than the actual cash value at the time of loss (ascertained with proper deduction for depreciation) of the property damaged or destroyed. However, limitations imposed by federal, state or municipal building codes shall not result in actual cash valuation.
- (9) Replacement cost shall include the reasonable and necessary architect's and/or engineers' plans, drawings, blueprints, photographs, specifications and their related fees, including inspectors' and/or superintendents' fees, inspection and/or supervisory charges; and to include architects' and engineers' fees for supervision of construction and repair of insured damage.
- (10) For buildings insured under this policy that have been certified as Leadership in Energy and Environmental Design (LEED) properties, in addition to the adjustment of the direct physical loss amount(s) described under this Clause 12.B.(10), this Company shall also be liable for:
  - (i) With respect to buildings that have not qualified for any LEED certification prior to the loss or damage, Replacement Cost includes the reasonable and necessary expense to repair or replace damaged buildings using materials and methods required to qualify for LEED Silver certification using the applicable LEED Rating System subject to the limit stated in Section 2.
  - (ii) With respect to buildings that have qualified for any LEED certification prior to the loss or damage, Replacement Cost includes the reasonable and necessary expense to restore the building to the level of LEED certification assigned to the building prior to the loss. This includes any changes in the requirements made after the certification was

first obtained. The number of credits assigned to the building or structures using the applicable LEED Rating System after recertification may not be less than number of credits assigned to the building or structures prior to the loss.

Replacement Cost also includes:

- (a) the additional costs and fees required by the LEED Rating System to certify or re-certify the building following an insured loss.
- (b) The reasonable and necessary expense to hire LEED-Accredited architects, engineers or design professionals to assist in the design, construction or reconstruction and repair of the damaged property;
- (c) the cost to flush out the reconstructed space with 100% outside air and to add new filtration media to conform with the applicable LEED requirement.
- (d) the necessary and reasonable costs to hire commissioning agents as required by the LEED rating system to provide building commissioning or re-commissioning services and to oversee post loss repair or reconstruction in order to verify and document that the repaired or replaced property, as well as other property including but not limited to life safety systems, health safety systems, HVAC, plumbing and electrical systems and their related controls whether damaged or not in the loss occurrence have been installed and calibrated properly and perform to documented design criteria and manufacturers' specifications.
- (e) the cost of replacing appliances and office equipment with products of like kind and quality that have been identified as "ENERGY STAR ®" or the equivalent, if available.
- (f) the cost of replacing interior furnishings with products of like kind and quality that are certified as GREENGUARD Indoor Air Quality Certified ® or products with similar emissions characteristics, if available.
- (g) the cost of replacing interior plumbing fixtures including, but not limited to toilets, shower heads, and lavatory faucets with products of like kind and quality that are more water efficient, if available.
- (h) the cost of replacing heating and cooling equipment with products of like kind and quality that have been identified as "ENERGY STAR " or equivalent products of such energy efficiency, if available.
- (i) the cost to conduct air testing and building flush-out (if required because of a failure to meet air quality standards set forth in the Construction IAQ) and follow-up air testing.

### **13. EARTHQUAKE, FLOOD AND NAMED WINDSTORM**

A. Each loss by Earthquake, Flood or Named Windstorm shall constitute a single occurrence hereunder if:

- (1) more than one Earthquake shock occurs within any period of 168 hours during the term of this policy, the beginning of which 168 hour period may be determined by the Insured; or

- (2) any Flood occurs within a period of the continued rising or overflow of any river(s) or stream(s) and the subsidence of same within the banks of such river(s) or stream(s); or
  - (3) any Flood results from any tidal wave or series of tidal waves caused by any one disturbance.
  - (4) Named Windstorm landfall occurs within any period of 72 hours during the term of this policy, the beginning of which 72 hour period may be determined by the Insured
- B. Should any time period referred to in Clause A. above commence prior to expiration or cancellation date of this policy, this Company shall pay all such Earthquake, Flood or Named Windstorm losses occurring during such period as if such period fell entirely within the term of this policy.
- C. This Company shall not be liable, however, for any loss caused by any Earthquake, Flood or Named Windstorm commencing before the effective date and time or commencing after the expiration date and time of this policy.
- D. (1) Earthquake means any natural or manmade earth movement including but not limited to earthquake, landslide, or tsunami, regardless of any other cause or event contributing concurrently or in any sequence of loss. Even if the peril of Earthquake is the predominant cause of loss or damage, any ensuing loss or damage not otherwise excluded herein shall not be subject to any sublimits or aggregates.
- (2) Flood means flood; rising waters; waves; tide or tidal water; and the release of water. The rising, overflowing or breaking of boundaries of natural or man-made bodies of water; or the spray therefrom; regardless of any other cause or event contributing concurrently or in any other sequence of loss. Even if the peril of Flood is the predominant cause of loss or damage, any ensuing loss or damage not otherwise excluded herein shall not be subject to any sublimits or aggregates.
- (3) Named Windstorm, including Storm Surge, shall mean the direct action of wind when such wind is associated with, or occurs in conjunction with a storm or weather disturbance which is named (tropical storm or higher) by the U.S. National Weather Service.

Storm Surge means water driven inland from coastal waters by high winds and low atmospheric pressure. Storm Surge is not defined within Flood.

Even if the peril of Named Windstorm, including Storm Surge, is the predominant cause of loss or damage, any ensuing loss or damage not otherwise excluded herein shall not be subject to any sublimits or aggregates.

#### **14. CONTRIBUTING INSURANCE**

Contributing insurance is insurance written upon the same plan, terms, conditions, and provisions as those contained in this policy. This insurance shall contribute in accordance with the conditions of this policy only with other contributing insurance as defined.

#### **15. EXCESS INSURANCE / DROP DOWN / PRIORITY OF PAYMENTS**

- A. Coverage hereunder shall not apply until the amount of loss, damage or expense arising out of any one occurrence exceeds

See Participation Page

plus the applicable portion of the primary policy deductible and any waiting period attributable to the perils and/or property and/or coverages insured hereunder.

The amount of the applicable portion of the primary policy deductible referred to above shall be determined by the proportion that the amount of loss attributable to the perils and/or property and/or coverages insured against under this policy (without application of the excess provision) bears to the total amount of loss multiplied by the amount of the applicable primary deductibles.

As respects theft, the term Occurrence as referred to elsewhere within the policy means the sum total of all losses of covered property resulting from one or more concealed acts committed by one person or more than one person acting in unison to the extent such loss is not otherwise excluded under this policy.

- B. In determining the amount of any loss, damage, or expense for which this policy is excess, the total loss for all coverages caused by any combination of perils, one or more of which is insured against under the primary policy, shall be used even though all such perils or coverages are not insured against under this excess policy.
- (1) Any recoveries made under the primary policy shall be considered as first applying to those perils and/or property and/or coverages not insured against by this policy. Upon exhaustion of the primary policy limits, this policy shall drop down and be liable for the loss in excess of the amount attributable to the primary policy as respects those perils and/or coverages and/or property insured hereunder subject to the limit of this policy.
  - (2) If there is any other excess insurance covering the perils and/or property and/or coverages insured against in the primary policy, but not covered by this policy, this insurance shall then allocate any loss recoveries made under the primary policy in the same proportion as the amount of loss involving the property and/or coverages insured against by this policy bears to the combined total loss. Upon exhaustion of the primary policy limits, this policy shall drop down and be liable for the loss in excess of the amount attributed to the primary policy as respects those perils and/or property and/or coverages covered hereunder subject to the limit of this policy.
  - (3) Paragraph two shall not apply, however, when the amount of loss attributed to the perils insured under the primary policy, but not covered under this policy, exceed the total amount of insurance provided by the primary and excess coverages with respect to said perils. In this situation any recoveries made under the primary policy shall first apply to those perils not insured against by this policy. Upon exhaustion of the primary policy limits, this policy shall drop down and be liable for the loss in excess of the amount attributed to the primary policy as respects those perils covered hereunder subject to the limit of this policy.
  - (4) In the event the Insured is a contributing or self-insurer with respect to the perils and/or property and/or coverages otherwise insured in any underlying insurance and no policy is issued to define the extent of this contributing or self insurance, for the purposes of this Excess Clause, the Insured's contributing or self-insurance shall be deemed to be the same as either: (a) all other contributing insurance participating in the Insured's layer(s); or (b) all other contributing insurance participating in the layer below the Insured's layer where

the Insured is entirely self insuring the layer. If the coverage provided by the policy(s) of the other contributing insurance company(s) is non-concurrent, then the contributing or self insurance provided by the Insured within the layer in question shall be deemed to be the same as the coverage provided by that contributing insurance company whose policy provides the least indemnity for the loss.

- C. In the event the aggregate limits provided for flood and/or earthquake in any underlying insurance are diminished or exhausted in any one policy term, the coverage provided under this policy shall respond as excess of the remaining limits.

In such event, the applicable amount of the deductible provision of the primary policy shall apply to the combination of all policies.

Where applicable relative to contributing insurance policy(s) described in either subparagraphs B(4)(a) or B(4)(b) above, in the event the Insured is providing contributing or self-insurance in any of the layer(s) of insurance, and such other contributing insurance policies contain aggregate limits of liability, the Insured's contributing or self insurance for those coverages shall be deemed to be aggregated also.

## **16. UNDERLYING INSURANCE**

- A. Underlying insurance is insurance on all or any part of the deductible and against all or any of the causes of loss covered by this policy including declarations of value to the carrier for hire. The existence of such underlying insurance shall not prejudice or affect any recovery otherwise payable under this policy.
- B. If the limits of such underlying insurance exceed the deductible amount which would apply in the event of loss under this policy, then that portion which exceeds such a deductible amount shall be considered other insurance, as defined in the Other Insurance clause.
- C. Recoveries made through FEMA, or any other governmental agency will be considered Underlying Insurance.

## **17. OTHER INSURANCE**

Except for insurance described by the contributing insurance clause, the excess insurance clause, or the underlying insurance clause, this policy shall not cover to the extent of any other insurance, whether directly or indirectly covering the same property against the same causes of loss. This Company shall be liable for loss or damage only to the extent of that amount in excess of the amount recoverable from such other insurance.

## **18. SUBROGATION**

- A. Any release from liability expressly waived by the Insured prior to loss hereunder shall not affect this policy or the right of the Insured to recover hereunder. The right of subrogation against the Insured, affiliated, subsidiary, and associated companies or corporations, the Insured's officers, directors, and employees, or any other corporations or companies associated with the Insured through ownership or management, and at the option of the Insured against a tenant, vendor, supplier or customer of the Insured, is waived.
- B. In the event of any payment under this policy, this Company shall be subrogated to the extent of such payment to all the Insured's rights of recovery therefore. The Insured shall execute all



papers required and shall do anything that may be reasonably necessary at the expense of the Company to secure such right. The Company will act in concert with all other interests concerned, i.e., the Insured and any other Company(ies) participating in the payment of any loss as primary or excess insurers, in the exercise of such rights of recovery.

If any amount is recovered as a result of such proceedings, the net amount recovered after deducting the cost of recovery shall be divided between the interests concerned in the proportion of their respective interests. If there should be no recovery, the expense of proceedings shall be borne by the insurers instituting the proceedings.

#### **19. SALVAGE AND RECOVERIES**

All salvages, recoveries and payments, excluding proceeds from subrogation and underlying insurance, recovered or received prior to a loss settlement under this policy, shall reduce the loss accordingly. If recovered or received subsequent to a loss settlement under this policy, such net amounts recovered shall be divided between the interests concerned, i.e. the Insured and any other Company(ies) participating in the payment of any loss, in the proportion of their respective interests.

#### **20. MACHINERY**

In case of loss or damage insured against to any part of a machine or unit consisting of two or more parts when complete for use, the liability of the Company shall be limited to the value of the part or parts lost or damaged or, at the Insured's option, to the cost and expense of replacing or duplicating the lost or damaged part or parts or of repairing the machine or unit.

#### **21. NOTICE OF LOSS**

As soon as practicable after any loss or damage occurring under this policy is known to the Insured's Home Office Insurance Department, the Insured shall report such loss or damage to Marsh USA Inc. for transmission to this Company. Any delay by the Insured in providing notice shall not affect the Insured's right to coverage under this policy, except if and to the extent that the Company proves that it actually and substantially was prejudiced by any unreasonable delay in notice.

#### **22. PROOF OF LOSS**

The Insured, at the request of the Company, will render a signed and sworn proof of loss to the Company or its appointed representative stating: the place, time, cause of the loss, damage, or expense; the interest of the Insured and of all others; the value of the property involved in the loss; and the amount of loss, damage, or expense.

#### **23. PARTIAL PAYMENT OF LOSS**

In the event of a loss covered by this policy, it is understood and agreed that the Company will issue partial payment(s) of claim subject to the policy provisions, and shall not be less than the undisputed estimate of loss or damage between the Insured and the Company.

#### **24. ASSIGNED ADJUSTER**

It is agreed that the Companies will use:

Stuart A. Mintz, AIC, RPA, ACFE

Assistant Vice President  
Senior International Executive General Adjustor  
Large Loss Unit, Custard Insurance Adjusters, Inc.

4875 Avalon Ridge Parkway  
Norcross, GA, 30071

Direct Office 678-304-3416  
Office Main 678-263-6800  
FAX Office 678-261-1728  
Cellular 678-558-1695

smintz@custard.com  
www.custard.com

for the adjustment of all claims made against this policy. This assignment may be changed by mutual consent of the Insured and the Company.

## **25. APPRAISAL**

If the Insured and this Company fail to agree on the amount of the loss, each, upon written demand of either the Insured or this Company made within 60 days after receipt of proof of loss by the Company, shall select a competent and disinterested appraiser. The appraisers shall then select a competent and disinterested umpire. If they should fail for 15 days to agree upon such umpire, then upon the request of the Insured or of this 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. Then, at a reasonable time and place, the appraisers shall appraise the loss, stating separately the value at the time of loss and the amount of loss. If the appraisers fail to agree, they shall submit their differences to the umpire. An award in writing by any two shall determine the amount of loss and shall be paid by the Company within 30 days thereafter. The Insured and this Company shall each pay his or its chosen appraiser and shall bear equally the other expenses of the appraisal and of the umpire.

## **26. PAIR AND SET**

Except as provided under the Machinery clause and paragraph (3) of the Consequential Loss clause, in the event of loss or damage insured against to any article or articles which are a part of a pair or set, the measure of loss or damage to such article or articles shall be, at the Insured's option:

- A. the reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article or articles, but in no event shall such loss or damage be construed to mean total loss of the pair or set; or
- B. the full value of the pair or set provided that the Insured surrenders the remaining article or articles of the pair or set to the Company.

## **27. ASSISTANCE AND COOPERATION OF THE INSURED**

The Insured shall reasonably cooperate with this Company, and, at this Company's reasonable request and expense, shall attend hearings and trials and shall assist in effecting settlements, in securing and giving evidence, in obtaining the attendance of witnesses and in conducting suits.

## **28. SUE AND LABOR**



In case of actual or imminent loss or damage covered by this policy, it shall, without prejudice to this insurance, be lawful and necessary for the Insured, their factors, servants, or assigns to sue, labor and travel for, in and about the defense, the safeguard, and the recovery of property or any part of the property insured hereunder; nor, in the event of loss or damage, shall the acts of the Insured or of this Company in recovering, saving, and preserving the insured property be considered a waiver or an acceptance of abandonment. This Company shall pay the expenses so incurred.

**29. PAYMENT OF LOSS**

All adjusted claims shall be due and payable no later than 30 days after presentation and acceptance of proofs of loss by this Company or its appointed representative.

**30. REINSTATEMENT**

With the exception of loss caused by perils which are subject to annual aggregate limits as noted in Section 3, no loss hereunder shall reduce the amount of this policy.

**31. SUIT AGAINST THE COMPANY**

No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless the Insured shall have fully complied with all the requirements of this policy; however, if there is any dispute between the Insured and the Company as to whether the Insured has fully complied with all the requirements of this policy, such a dispute may be resolved in a suit or action on the policy for recovery of any claim. The Company agrees that any action or proceedings against it for recovery of any loss under this policy shall not be barred if commenced within two years and one day after the Insured provides notice to the Company in accordance with clause 21 above, which period shall be tolled from the date of notice until the date that the Insured receives the Company's final coverage decision (this two year and one day period is referred to as the "limitations period"). However, the limitations period shall not apply if by the laws of the State of the address of the Insured such a limitation is invalid or if the laws of the state in which any such action is brought permit a longer period of time within which to commence such a suit. Furthermore, any tolling of the limitations period shall not preclude the Insured from bringing a suit or any other proceeding regarding recovery for any loss or of any claim hereunder during the period of tolling or at any other time.

It is agreed that in the event of the failure of the Company to pay any amount claimed to be due hereunder or in the event of any other dispute relating to this policy, the Company, at the request of the Insured, will submit to the jurisdiction of any court of competent jurisdiction within the United States and will comply with all of the requirements necessary to give such court jurisdiction and all matters hereunder shall be determined in accordance with the law and practice of such court, not including the court's law regarding choice of law.

**32. CERTIFICATES OF INSURANCE**

Any certificate of insurance issued in connection with this policy shall be issued solely as a matter of convenience or information for the addressee(s) or holder(s) of said certificate of insurance, except where any Additional Insured(s) are named pursuant to the Special Provisions of said certificate of insurance. In the event any Additional Insured(s) are so named, this policy shall be deemed to have been endorsed accordingly, subject to all other terms, conditions and exclusions stated herein.

The Company hereby authorizes Marsh USA Inc. to issue certificates of insurance for Mortgagees, Loss Payees and similar interests.

**33. CANCELLATION**

- A. This policy may be canceled at any time at the request of the Insured or it may be canceled by the Company by mailing to the Insured at:

Turnberry Associates  
c/o Melissa Levin  
19501 Biscayne Boulevard, Suite 400  
Aventura, FL 33180

and to the schedule Mortgage Holders outlined within this policy, written notice stating when, not less than 90 days thereafter, such cancellation shall be effective. The earned premium shall be computed on a pro-rata basis.

- B. The mailing of notice as aforesaid shall be sufficient proof of notice and the effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the Insured or by the Company shall be equivalent to mailing.
- C. Cancellation shall not affect coverage on any shipment in transit on the date of cancellation. Coverage will continue in full force until such property is safely delivered and accepted at place of final destination.
- D. In the event of non-payment of premium this policy may be canceled by the Company by mailing to the Insured at the address shown in A. above stating when, not less than 10 days thereafter, such cancellation shall be effective.

**34. TITLES OF PARAGRAPHS**

The titles of paragraphs of this form and of endorsements and supplemental contracts, if any, now or hereafter attached hereto are inserted solely for convenience of reference and shall not be deemed in any way to limit or affect the provisions to which they relate.

**35. CONFORMANCE**

The terms of this policy which are in conflict with the applicable statutes of the state wherein this policy is issued are hereby amended to conform to such statutes, unless the statutes narrow or limit the coverage afforded by this policy and do not bar a policy from providing broader coverage.

**36. PERMISSION TO INSPECT**

This company will be permitted, but not have the duty, to inspect insured property.

**37. ABANDONMENT**

There may be no abandonment of property to the company.

**38. BANKRUPTCY AND INSOLVENCY**

In the event of the insolvency or the bankruptcy of any Insured, the Company will continue to insure the representatives, successors or assigns of such Insured. The insolvency or bankruptcy of the Insured does not relieve the Company of liability as provided under this policy.

**39. COINSURANCE WAIVER**

This policy is not subject to coinsurance.

**40. VACANCY OR UNOCCUPANCY**

Permission is granted to cease operations or remain vacant and/or unoccupied without limit of time, and such vacancy and/or unoccupancy shall not affect the insurance provided under this policy.

**41. LIBERALIZATION**

If, during the period that insurance is in force under this policy, any authorized endorsement or filed rules or regulations affecting the same are revised by statute so as to broaden the insurance without additional premium charge, such extended or broadened insurance shall insure to the benefit of the Insured hereunder.

**42. NO CONTROL**

This insurance shall not be affected by failure of the Insured to comply with any provisions of this policy in any portion of the premises over which the Insured has no control.

**43. STANDARD MORTGAGEE CLAUSE**

Loss, if any, under this policy, shall be payable as first mortgagee, as interest may appear, under all present or future mortgagees upon the property herein described in which the aforesaid may have an interest as mortgagee(or trustee), in order of precedence of said mortgagees, 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 the Companies 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. The Company reserves the right to cancel this policy at any time provided by its terms. Companies will provide notice of cancellation of or material change in coverage to mortgagee (or trustee) at least 30 days prior to such cancellation or material change and in any case this policy shall continue in force for the benefit only of the mortgagee (or trustee) for 90 days after notice to the mortgagee (or trustee) of such cancellation and shall then cease and the Companies shall have the right, on like notice, to cancel this agreement. Whenever the Companies 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, the Companies shall, to the extent of such payment, be thereupon legally subrogated to all 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 its claim against the mortgagor (or owner).

### **Policy Change Endorsement 1 – Computer Virus Exclusion**

The following provisions are hereby attached to and made part of this Policy:

This policy does not insure any loss of, damage to, destruction, distortion, interruption, erasure, corruption or alteration, of Electronic Data caused by computer Virus, nor any resulting business interruption or other time element loss. In the event that the Computer Virus causes an ensuing loss of or direct damage to insured property, then this policy, subject to all of the terms, conditions and exclusions, shall cover such resulting damage.

Electronic Data means facts, concepts, code or any other information converted to a form useable for communication, interpretation or processing by computers or other electronic or electromechanical data processing or electronically controlled equipment, and includes programs, software, and other coded instructions for the processing or manipulation of other data or the direction and manipulation of any equipment.

Computer Virus means any corrupting, harmful, or otherwise disruptive instructions or code including any unauthorized instruction code, programmatic or otherwise, that propagate through any computer or computer system(s), network(s), or groups of whatsoever nature. Computer Virus includes but is not limited to : “Trojan Horses”, “worms” and “time or logic bombs”.

All other terms and conditions remain unchanged.

## **Policy Change Endorsement 2 – Asbestos Exclusion**

The following provisions are hereby attached to and made part of this Policy:

This Policy only insures asbestos physically incorporated in an insured building or structure, and then only set part of the asbestos which has been physically damaged during the period of insurance by a peril covered within this Policy.

This coverage is subject to each of the following specific limitations:

- A. The said building or structure must be insured under this Policy for damage by a covered peril within this Policy.
- B. The covered peril within this Policy must be the immediate, sole cause of the damage of the asbestos.
- C. The insured must report the existence and cost of the damage as soon as practicable after the covered peril within the Policy first damaged the asbestos. However, this Policy does not insure any such damage first reported to the Underwriters more than 12 (twelve) months after expiration, or termination, of the period of insurance.
- D. Insurance under this Policy in respect of asbestos shall not include any sum relating to:
  - (1) Any faults in the design, manufacture or installation of the asbestos;
  - (2) Asbestos not physically damaged by the covered peril within this Policy including any governmental or regulatory authority direction or request of whatsoever nature relating to undamaged asbestos.

Except as set forth in the foregoing Section, this Policy does not insure asbestos or any sum relating thereto.

All other terms and conditions remain unchanged.

### **Policy Change Endorsement 3 – Chemical, Biological & Radiological Exposures Exclusion**

The following provisions are hereby attached to and made part of this Policy:

- A. This policy does not insure against any loss or damage, cost or caused by or resulting from any of the following, regardless of any other cause or event contributing concurrently or in any other sequence thereto:
- (1) The unlawful possession, use, release, discharge, dispersal or disposal of any chemical, bacteriological, viral, radioactive, or similar agents or mater regardless of who is responsible for the act and whether war has been declared or not, and regardless of any other cause or event contributing concurrently or in any other sequence thereto.
  - (2) The unlawful possession, use, release, discharge, dispersal or disposal of any device or material capable of producing a nuclear reaction or spread of radioactivity, regardless of who is responsible for the act and whether war has been declared or not, and regardless of any other cause or event contributing concurrently or in any other sequence thereto.
- B. In any action or suit or other proceeding where the company alleges that, by reason of either of the provisions above, some or all loss or damage is not insured by this policy, the burden of proving that such loss or damage is not excluded shall be upon the Insured.

All other terms and conditions remain unchanged.

#### **Policy Change Endorsement 4 – Authorities Endorsement**

The following provisions are hereby attached to and made part of this Policy:

It is hereby understood and agreed that with respect to the property section only:

Except as specifically stated in this policy or endorsement attached thereto, the company shall not be liable for loss, damage, costs, expenses, fines, or penalties incurred, sustained by or imposed on the Insured at the order of any Government Agency, Court, or other Authority arising from any cause whatsoever.

However, if any time element coverage is afforded by this policy or endorsements thereto, the coverage is extended to include any increase in the actual loss sustained by the Insured, resulting directly from an interruption of business covered hereunder, during the length of time not exceeding thirty ( 30) days, when as a direct result of damage to or destruction of covered property by the peril(s) insured against, access to the premises or commencement of repairs is delayed at the order of any Government Agency, Court, or other Authority.

All other terms and conditions remain unchanged.



## **Policy Change Endorsement 5 – Electronic Date Recognition Clause**

The following provisions are hereby attached to and made part of this Policy:

Notwithstanding any provision of this Policy which may appear to the contrary (including any endorsement thereto except an endorsement specifically referencing this Electronic Date Recognition Clause), this Policy does not insure any loss, damage, cost, claim, or expense, whether preventative (including temporary protection and preservation of property), remedial, or otherwise, directly or indirectly arising out of or relating to:

- A. the recognition, interpretation, calculation, comparison, differentiation, sequencing, or processing of data involving one or more dates or times, including the Year 2000, by any computer system, hardware, program or software, or any microchip, integrated circuit, or similar device in computer equipment or non-computer equipment, whether the property of the Insured or not; or
- B. any change, alteration, correction, or modification involving one or more dates or times, including the Year 2000, to any such Computer system, hardware, program, or software, or any microchip, integrated circuit, or similar device in computer equipment or non-computer equipment, whether the property of the Insured or not.

Except as provided in the next paragraph, this Electronic Date Recognition Clause shall apply regardless of any other cause or event contributing concurrently or in any other sequence to the loss, damage, cost, claim, or expense.

If direct physical loss or damage not otherwise excluded by this Policy results, then subject to all its terms and conditions, this Policy shall cover only such resulting loss or damage. Such covered resulting loss or damage shall not include any cost, claim, or expense, whether preventative (including temporary protection and preservation of property), remedial, or otherwise, arising out of or relating to any change, alteration, correction, or modification relating to (1) data, or (2) the ability of any computer system, hardware, program, or software, or any microchip, integrated circuit, or similar device in computer equipment or non-computer equipment to recognize, interpret, calculate, compare, differentiate, sequence, or process any data. Claims for resulting physical loss or damage at multiple locations shall constitute a separate occurrence at each location.

All other terms and conditions remain unchanged.

## **Policy Change Endorsement 6 - Terrorism Exclusion Endorsement**

The following provisions are hereby attached to and made part of this Policy:

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss

- A. War, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- B. Any act of terrorism.

For the purpose of this endorsement an act of terrorism means an act, including the use of force or violence, of any person or group(s) of persons whether acting alone or on behalf of or in connection with an organization(s), committed for political, religious or ideological purposes including the intention to influence any government and/or to put the public in fear for such purposes.

An act of terrorism shall also include any act which is verified or recognized by the United States Government as an act of Terrorism.

All other terms and conditions remain unchanged.

### **Policy Change Endorsement 7 – Mold Exclusion**

The following provisions are hereby attached to and made part of this Policy:

Unless the direct result of a covered peril as defined by the policy, this policy does not insure any loss, damage or expense consisting of, caused by, contributed to, or aggravated by mold, moss, mildew, fungi, spores, bacterial infestation or any similar organism, wet or dry rot and extremes of temperature or humidity. This includes, but is not limited to, the cost for investigation, testing, remediation services, extra expense or business interruption.

If loss otherwise covered by this policy occurs and the cost of removal of debris is increased due to the presence of rust, mold, moss, fungus, bacterial infestation, wet or dry rot and extremes of temperature or humidity, the company's total liability for any one occurrence will not exceed the Limits of Liability shown in Section 3.

All losses claimed for this coverage as a direct result of physical loss or damage to insured property must be reported to the Insurer within 365 days of the actual loss occurrence date.

All other terms and conditions remain unchanged.

## **Policy Change Endorsement 8 – Schedule of Mortgage Holders**

The following provisions are hereby attached to and made part of this Policy:

It is agreed that the interest of Mortgagee is added under this policy as respects loss or damage to property situated at the Aventura Mall situated at 19501-19575 Biscayne Blvd, Aventura, Florida 33180. Loss, if any, to property at such location shall be adjusted with the Insured and payable to the Insured and Mortgagee as their interest may appear in accordance with the conditions of the Mortgage Clause contained within this Policy.

By way of clarification, the dedicated Named Windstorm limit of USD350,000,000 applying to the Aventura Mall described under Clause 2.C, Limits of Liability, of this Policy shall similarly include the interest of Mortgagee.

Mortgagee shall mean:

Wells Fargo Bank NA  
Its' successors and/or assigns, as their interests may appear  
DSR Imaging, CMS Insurance  
D1118-02W 1525 West WT Harris Blvd  
Charlotte, NC 28262

Notice of cancellation and policy changes:

Should coverage under this policy be cancelled by the company prior to the expiration date thereof, the company will mail notice of cancellation at least 30 days prior to cancellation to the declared interests included under this endorsement and to all certificate holders as their interest may appear as shown on the certificates of insurance and / or certificate holder report provided to the company. In addition, the Company will send notification of any changes to the policy that may affect that interest.

All other terms and conditions remain unchanged.

## **Policy Change Endorsement 9 – Schedule of Mortgage Holders**

The following provisions are hereby attached to and made part of this Policy:

It is agreed that the interest of Mortgagee is added under this policy as respects loss or damage to property situated at the Aventura Mall situated at 19501-19575 Biscayne Blvd, Aventura, Florida 33180. Loss, if any, to property at such location shall be adjusted with the Insured and payable to the Insured and Mortgagee as their interest may appear in accordance with the conditions of the Mortgage Clause contained within this Policy.

By way of clarification, the dedicated Named Windstorm limit of USD350,000,000 applying to the Aventura Mall described under Clause 2.C, Limits of Liability, of this Policy shall similarly include the interest of Mortgagee.

Mortgagee shall mean:

Morgan Stanley Bank, N.A.  
, ISAOA, ATIMA  
c/o C-III Asset Management LLC  
5221 N. O'Connor Blvd., Suite 600  
Irving, TX 75039

Notice of cancellation and policy changes:

Should coverage under this policy be cancelled by the company prior to the expiration date thereof, the company will mail notice of cancellation at least 30 days prior to cancellation to the declared interests included under this endorsement and to all certificate holders as their interest may appear as shown on the certificates of insurance and / or certificate holder report provided to the company. In addition, the Company will send notification of any changes to the policy that may affect that interest.

All other terms and conditions remain unchanged.

### Policy Change Endorsement 10 – Schedule of Mortgage Holders or Loss Payees

The following provisions are hereby attached to and made part of this Policy:

Location Description of Property Name and Address of Mortgage Interests Holder ("M" for Mortgage Holder) or Loss Payee ("LP" for Loss Payee)

Notice of cancellation and policy changes:

Should coverage under this policy be cancelled by the company prior to the expiration date thereof, the company will mail notice of cancellation at least 10 days prior to cancellation for nonpayment of premium & 30 days prior to cancellation, for all other cause, to the declared interests below and to all certificate holders as their interest may appear as shown on the certificates of insurance and / or certificate holder report provided to the company. In addition, the company will send notification of any changes to the policy that may affect that interest.

Location	Name and Address of Mortgage Holder or Loss Payee	Declared Interests
Destin Commons, Ltd & Destin Commons Phase III LP, 4000- 4300 Legendary Drive, Destin, FL 32541	American General Life Insurance Company and National Union Life Insurance Co. of Pittsburgh, PA ISAOA, ATIMA c/o Berkadia Commercial Mortgage LLC P.O. Box 557 Ambler, PA 19002	Mortgagee (Building) Loss Payee (Business Income)

All other terms and conditions remain unchanged.

### Policy Change Endorsement 11 – Schedule of Mortgage Holders or Loss Payees

The following provisions are hereby attached to and made part of this Policy.

Notice of cancellation and policy changes:

Should coverage under this policy be cancelled by the company prior to the expiration date thereof, the company will mail notice of cancellation at least 30 days prior to cancellation to the declared interests below and to all certificate holders as their interest may appear as shown on the certificates of insurance and / or certificate holder report provided to the company. In addition, the company will send notification of any changes to the policy that may affect that interest.

Location	Name and Address of Mortgage Holder or Loss Payee	Declared Interests
Hallandale Group Limited Partnership Hampton Inn Hallandale 1000 S. Federal Highway Hallandale, FL  Aventura Town Center 18701-18995 Biscayne Blvd. & 2711 NE 187 <sup>th</sup> Street Aventura, FL 33180	Wells Fargo Bank, N.A. Its successors and/or assigns, as their interests may appear DSR Imaging, CMS Insurance, D1118-02W 1525 West WT Harris Blvd. Charlotte, NC 28262	Mortgagee / Loss Payee

All other terms and conditions remain unchanged.

## Policy Change Endorsement 12 – Schedule of Mortgage Holders or Loss Payees

The following provisions are hereby attached to and made part of this Policy.

Notice of cancellation and policy changes:

Should coverage under this policy be cancelled by the company prior to the expiration date thereof, the company will mail notice of cancellation at least 30 days prior to cancellation to the declared interests below and to all certificate holders as their interest may appear as shown on the certificates of insurance and / or certificate holder report provided to the company. In addition, the company will send notification of any changes to the policy that may affect that interest.

Location	Name and Address of Mortgage Holder or Loss Payee	Declared Interests
N-Site Limited Partnership Marriott Residence Inn 19900 W. Country Club Drive, Aventura, FL 33180  TB Orlando Hotel LLC Marriott Courtyard Orlando 730 N. Magnolia Avenue Orlando, FL 32802  Champion Retail Limited Partnership Marriott Courtyard Aventura 2825 NE 191 Street Aventura, FL 33180  Nashville Downtown Hotel, LLC 121 4th Avenue Nashville, TN 37201	Wells Fargo Bank, N.A. As Master Servicer, CMS Insurance D1128-02W 1525 West WT Harris Blvd. Charlotte, NC 28262	Mortgagee / Loss Payee

All other terms and conditions remain unchanged.



### Policy Change Endorsement 13 – Schedule of Mortgage Holders or Loss Payees

The following provisions are hereby attached to and made part of this Policy.

Notice of cancellation and policy changes:

Should coverage under this policy be cancelled by the company prior to the expiration date thereof, the company will mail notice of cancellation at least 30 days prior to cancellation to the declared interests below and to all certificate holders as their interest may appear as shown on the certificates of insurance and / or certificate holder report provided to the company. In addition, the company will send notification of any changes to the policy that may affect that interest.

Location	Name and Address of Mortgage Holder or Loss Payee	Declared Interests
Turnberry Airport Holdings, Inc. & South Florida Aviation Investments, Inc. Turnberry Aviation Hangars (5 Hangars)- 4200, 4280, 4320, 4300, 4340 NW 145 Street, Turnberry FBO Firehouse-4240 NW 144 Street Turnberry FBO PVC Hangars (2 PVC Hangars)-4230 & 4220 NW 144 Street Turnberry T Hangars (18 Hangars)-14200 NW 42 Avenue Aviation Fuel Farm-4200 NW 145 Street, Opa Locka, FL 33054	Florida Community Bank, N. A. Its successors and/or assigns 369 N. New York Avenue Winter Park, FL 32789	Mortgagee / Loss Payee

All other terms and conditions remain unchanged.

#### **Policy Change Endorsement 14 – Schedule of Mortgage Holders or Loss Payees**

The following provisions are hereby attached to and made part of this Policy:

Location Description of Property Name and Address of Mortgage Interests Holder ("M" for Mortgage Holder) or Loss Payee ("LP" for Loss Payee)

Notice of cancellation and policy changes:

Should coverage under this policy be cancelled by the company prior to the expiration date thereof, the company will mail notice of cancellation at least 10 days prior to cancellation for nonpayment of premium & 30 days prior to cancellation, for all other cause, to the declared interests below and to all certificate holders as their interest may appear as shown on the certificates of insurance and / or certificate holder report provided to the company. In addition, the company will send notification of any changes to the policy that may affect that interest.

Location	Name and Address of Mortgage Holder or Loss Payee	Declared Interests
Destin Whole Foods on Lot 1- Parcel 4A- Destin Commons East (Commons Village East Ltd.) of Destin Commons Shopping Center, Destin Commons Land Loan, Destin, Okaloosa County, FL 32541	JP Morgan Chase Bank, N. A. any and all subsidiaries, ATIMA, ISAOA, and individually and as Administrative Agent 700 N. Pearl Street, 13th Floor TX1-2625 Dallas, TX 75201	Mortgagee / Loss Payee

All other terms and conditions remain unchanged.

### **Policy Change Endorsement 15 – Schedule of Mortgage Holders or Loss Payees**

The following provisions are hereby attached to and made part of this Policy:

Location Description of Property Name and Address of Mortgage Interests Holder ("M" for Mortgage Holder) or Loss Payee ("LP" for Loss Payee)

Notice of cancellation and policy changes:

Should coverage under this policy be cancelled by the company prior to the expiration date thereof, the company will mail notice of cancellation at least 10 days prior to cancellation for nonpayment of premium & 30 days prior to cancellation, for all other cause, to the declared interests below and to all certificate holders as their interest may appear as shown on the certificates of insurance and / or certificate holder report provided to the company. In addition, the company will send notification of any changes to the policy that may affect that interest.

Location	Name and Address of Mortgage Holder or Loss Payee	Declared Interests
Downtown Parking Garage LLC Hilton Nashville Garage 125 4 <sup>th</sup> Avenue Nashville, TN 37201	Capital Bank A Division of First Tennessee Bank National Association ISAOA, ATIMA PO Box 702037 Dallas, TX 75370	Mortgagee / Loss Payee

All other terms and conditions remain unchanged.

## Policy Change Endorsement 16 – Schedule of Mortgage Holders or Loss Payees

The following provisions are hereby attached to and made part of this Policy:

Location Description of Property Name and Address of Mortgage Interests Holder ("M" for Mortgage Holder) or Loss Payee ("LP" for Loss Payee)

Notice of cancellation and policy changes:

Should coverage under this policy be cancelled by the company prior to the expiration date thereof, the company will mail notice of cancellation at least 10 days prior to cancellation for nonpayment of premium & 30 days prior to cancellation, for all other cause, to the declared interests below and to all certificate holders as their interest may appear as shown on the certificates of insurance and / or certificate holder report provided to the company. In addition, the company will send notification of any changes to the policy that may affect that interest.

Location	Name and Address of Mortgage Holder or Loss Payee	Declared Interests
Aventura Town Center 18701-18995 Biscayne Blvd. Atlanta, GA 33180	IAS Asset I LLC, ISAOA, ATIMA c/o C-111 Asset Management 5221 N. O'Conner Blvd., Suite 600 Irving, TX 75039	Mortgagee / Loss Payee

All other terms and conditions remain unchanged.

## **Policy Change Endorsement 17 - Machinery Breakdown Endorsement**

The following provisions are hereby attached to and made part of this Policy.

### **A. INSURING AGREEMENT**

Subject to all the provisions stated herein the Company shall be liable for:

- (1) direct physical loss to property of the Insured and to property of others in the care, custody or control of the Insured;
- (2) the loss and expense resulting from the necessary interruption of business; if a Business Interruption Section is attached and which provisions hereby apply;
- (3) extra expense; if a Business Interruption Section is attached and which provisions hereby apply and all as resulting from an Accident to an Object.

When used in this Endorsement, the following definitions shall apply:

“Object” shall mean any boiler, fired or unfired pressure vessel, refrigerating or air conditioning system, piping and its accessory equipment, and any mechanical or electrical machine or apparatus used for the generation, transmission or utilization of mechanical or electrical power.

“Accident” shall mean a sudden and accidental breakdown of an Object or a part thereof which manifests itself at the time of its occurrence by physical damage that necessitates repair or replacement of the Object or part thereof.

### **B. LIMIT OF LIABILITY**

Liability under this Endorsement arising out of any One Accident is limited to USD100,000,000.

If an initial Accident causes other Accidents, all will be considered “One Accident”. All Accidents at any one location which manifest themselves at the same time and are the result of the same cause will be considered “One Accident.”

### **C. CONDITIONS**

With respect to Objects insured by the provision of this Endorsement, the following conditions shall apply:

#### **(1) Inspection**

The Company shall be permitted but not obligated to inspect, at all reasonable times, any Object. 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 Insured or others, to determine or warrant that the Object is safe or healthful.

#### **(2) Suspension**

Upon the discovery of a dangerous condition with respect to any Object, any representative of the Company may immediately suspend the insurance with respect to an Accident to said Object by

written notice mailed or delivered to the Insured at the address of the Insured, or at the Location of the Object. Insurance so suspended may be reinstated by the Company, but only by an Endorsement issued to form a part of this policy. The Insured will be allowed the unearned portion of the premium paid for the suspended insurance, pro rata, for the period of suspension.

D. SUBLIMITS OF COVERAGE

(1) Expediting Expenses Coverage

This policy is extended to cover the reasonable extra cost to make temporary repair, expedite permanent repairs and expedite permanent replacement of property covered by this Endorsement, including overtime and the extra cost of express or other rapid means of transportation when loss to such property results from damage as insured against by this Endorsement, all subject to a limit of USD5,000,000. This limit is part of and not in addition to the Limit of Liability.

(2) Hazardous Substances Coverage

It is agreed that, if, as a result of an Accident, any property is damaged, contaminated, or polluted by a substance declared by a governmental agency to be hazardous to health, the Company shall be liable under the policy for the additional expenses incurred for cleanup, repair or replacement, or disposal of that damaged, contaminated or polluted property. The Company's total liability for additional expenses shall not exceed USD1,000,000. This limit is part of and not in addition to the Limit of Liability.

As used here, "additional expenses" shall mean expenses incurred beyond those for which the Company would have been liable if not substance hazardous to health had been involved in the Accident.

(3) Ammonia Contamination Coverage

The Company's liability for loss, including salvage expense, with respect to damage by ammonia contacting or permeating property under refrigeration or in process requiring refrigeration, resulting from any One Accident to one or more Objects shall not exceed USD100,000,000. This limit is part of and not in addition to the Limit of Liability.

(4) Water Damage Coverage

The Company's liability for loss, including salvage expense, on property damaged by water, resulting from any One Accident shall not exceed USD100,000,000. This limit is part of and not in addition to the Limit of Liability.

(5) Off Premises Service Interruption

This policy is extended to cover the necessary interruption of business conducted by the Insured which results from service interruption caused as a result of an Accident to an Object, as defined above, whether or not such Object is located on the premises of the Insured, which is:

- (a) owned by the public utility company or other company contracted by the Insured to supply steam, gas, water, electricity or refrigeration to the Insured, an
- (b) used to supply said services directly to the Insured,

provided the duration of such interruption is in excess of forty-eight (48) hours. However, as respects such Object, the Company shall not be liable under this endorsement for payment of any loss resulting from or arising out of an Accident caused by flood, earthquake, fire, lightning, sprinkler leakage, windstorm, hail, aircraft, vehicles, smoke, explosion, civil authority, riot, civil commotion, vandalism or molten material.

This Company's liability for loss from Off Premises Service Interruption from any One Accident shall not exceed USD10,000,000. This limit is part of and not in addition to the Limit of Liability.

(6) Consequential Damage

This policy is extended to cover loss to property of the Insured and loss to property of others for which the Insured shall become legally obligated to pay when such loss is due to spoilage from lack of power, light, heat, steam, or refrigeration resulting solely from an Accident to an Object, subject to a limit of USD1,000,000. This limit is part of and not in addition to the Limit of Liability.

E. EXCLUSIONS

(1) The following losses are not insured under this Endorsement:

- (a) Breakdown of any structure or foundation (other than a bedplate of a machine) supporting an Object or any part thereof, not caused by an Accident to the Object;
- (b) Breakdown of any boiler setting, insulating or refractory material not caused by an Accident to the Object;
- (c) Breakdown of well casings, penstocks or draft tubes;
- (d) Breakdown of Objects manufactured or held by the Insured for sale to others;
- (e) Breakdown of catalyst not caused by an Accident to the Object containing such catalyst or any other insured Objects;
- (f) Breakdown of any oven, stove or furnace;
- (g) Breakdown of any sewer piping, any underground gas piping, any piping forming a part of a sprinkler system or any water piping other than:
  - (i) feed water piping between any boiler and its feed pumps or injectors,
  - (ii) boiler condensate return piping, or
  - (iii) water piping forming a part of a refrigerating or air conditioning system used for cooling, humidifying or space heating purposes;
- (h) Breakdown of an Object until such time as said Object has been installed and completely tested on the premises of the Insured. For the purposes of this insurance, "completely tested" shall mean that said Object has operated on the Insured's premises in the capacity for which it was designed as part of the Insured's normal production process or processes. Notwithstanding the above, coverage under this Agreement shall apply to any newly installed Object having a fair market value of USD1,000,000. or less and to any spare or replacement Object or having parts hereof;

- (i) An Accident to any Object while it is being maintained or altered if said Accident is direct result of said maintenance or alterations. However, if an Accident otherwise insured hereunder subsequently ensues, then the Company shall be liable for such Accident. Any opening, closing or transporting of an Object shall not be considered a part of any maintenance or alterations;
- (j) An Accident to any Object utilizing sulfur dioxide or hydrogen sulfide gas as respects:
  - (i) loss or damage resulting from corrosion anywhere following said Accident,
  - (ii) loss or damage to catalyst caused by steam or water contacting or permeating the said catalyst following said Accident, and
  - (iii) payment under any Business Interruption or Extra Expense Endorsement forming a part of this policy, for any time during which the resumption of business is in anyway curtailed, delayed or prevented because of loss or damage of the kinds referred to in the preceding Sections (a) and (b);
- (k) Breakdown of any vacuum tube or gas tube; and
- (l) Breakdown of any electronic computer or electronic data processing equipment, unless used to operate one or more insured "objects".
- (m) Any increase in loss caused by or resulting from the enforcement of any ordinance, law, regulation, rule or ruling regulating or restricting repair, replacement, alteration, use, operation, construction or installation. As used here, increase in loss also includes expenses incurred beyond those for which we would have paid if no substance declared to be hazardous to health by a governmental agency had been involved in the "accident".
- (n) Loss caused by or resulting from:
  - (i) War, including undeclared or civil war;
  - (ii) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
  - (iii) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.
- (2) As respects this Endorsement, Accident shall not include loss:
  - (a) From depletion, deterioration, corrosion or erosion, wear and tear, leakage at any valve, fitting, shaft seal, gland packing, joint or connection; the functioning of any safety or protective device; nor shall Accident mean the breakdown of any Object while it is undergoing hydrostatic, pneumatic, gas pressure, or insulation breakdown tests, or is being dried out;
  - (b) From fire concomitant with or following an Accident or from the use of water or other means to extinguish fire (as respects any electrical machine or apparatus or gas turbine), this section is changed to read: "from fire outside said electrical machine or apparatus or gas turbine



concomitant with or following an Accident or from the use of water or other means to extinguish fire”;

- (c) From an Accident caused directly or indirectly by fire or from the use of water or other means to extinguish fire;
- (d) From a combustion explosion outside the Object concomitant with or following an Accident;
- (e) From an Accident caused directly or indirectly by a combustion explosion outside the Object;
- (f) As a respects any boiler of the chemical recovery type, from an explosion within the furnace of any such boiler or within the passages from the furnace to the atmosphere whether or not such explosion (a) is contributed to or aggravated by an Accident to any part of said boiler that contains steam or water, or (b) is caused in whole or in part, directly or indirectly, by an Accident to any Object or part thereof;
- (g) (i) From an Accident caused directly or indirectly by nuclear reaction, nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or  
(ii) From nuclear reaction, nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, caused directly or indirectly by, contributed to or aggravated by an Accident;

nor shall the Company be liable for any loss covered in whole or in part by a contract of insurance, carried by the Insured, which also covers any hazard or peril of nuclear reaction or nuclear radiation.

- (3) Notwithstanding any provisions in the policy or its other Endorsements to the contrary, the Company assumes no liability under this Endorsement for any loss:
  - (a) From an Accident caused directly or indirectly by earth movement, including but not limited to earthquake, landslide, mudslide, subsidence or volcanic eruption; or
  - (b) From the explosion of accumulated gases or unconsumed fuel within the fire box, or combustion chamber, or any fired vessel or within the flues which conduct the gases of combustion therefrom;
  - (c) From flood, unless an Accident ensues and the Company shall then be liable under this Endorsement only for loss from such ensuing Accident; and
  - (d) From explosion of an Object other than:
    - (i) any steam boiler, steam piping, steam turbine, gas turbine, steam engine, or
    - (ii) any machine or electrical apparatus when such loss is caused by centrifugal force or mechanical breakdown.
- (4) With respect to an Accident to an Object, liability for loss to any catalyst shall not exceed the Actual Cash Value thereof at the time of said loss.

All other terms and conditions remain unchanged.

### **Policy Change Endorsement 18 – Occurrence Limit of Liability**

The following provisions are hereby attached to and made part of this Policy.

The limit of liability or Amount of Insurance shown on the face of this policy, or endorsed onto this policy, is the total limit of the Company's liability applicable to each occurrence, as hereafter defined.

Notwithstanding any other terms and conditions of this policy to the contrary, in no event shall the liability of the Company exceed this limit or amount irrespective of the number of locations involved. The term "occurrence" shall mean any one loss, disaster, casualty or series of losses, disasters, or casualties, arising out of one event. When the term applies to loss or losses from the perils of tornado, windstorm, hail, volcanic eruption, riot, riot attending a strike, civil commotion, and vandalism and malicious mischief one event shall be construed to be all losses arising during a continuous period of 72 hours. When filing proof of loss, the Insured may elect the moment at which the 72 hour period shall be deemed to have commenced.

A. The premium for this policy is based upon the Statement of Values on file with the Company, or attached to this policy. In the event of loss hereunder, liability of the Company, subject to the terms of the policy, shall be limited to the least of the following:

(1) The actual adjusted amount of loss, less applicable deductible(s).

(3) The Limit of Liability or Amount of Insurance shown on the face of this policy or endorsed onto this policy.

All other terms and conditions remain unchanged.

## **Policy Change Endorsement 19 – Upgrade to Green Commercial Endorsement**

The following provisions are hereby attached to and made part of this Policy.

The coverages and valuation provision provided by this endorsement only apply if direct physical loss or damage to covered real and/or personal property is caused by any of the perils covered by the Policy and replacement cost valuation applies. This coverage does not apply to: (1) personal property of others in the Insured's care, custody, and control, (2) leased personal property, and/or (3) finished or unfinished stock.

In no event, does this endorsement increase or change the per occurrence limit of liability shown in the declarations or the annual aggregate for specified perils.

- A. Notwithstanding the Valuation Provision of this Policy or limits of liability applicable to specific locations or perils, if replacement cost valuation applies to real and/or personal property, then the Company's liability for loss applicable to this endorsement shall be the cost to repair or replace the covered damaged property, subject to the applicable limit of liability, plus the least of the following amounts:
- (1) The reasonable and necessary amount to upgrade to green the covered damaged property as described in Coverage Section A - Non-LEED® Certified Coverage or as described in Coverage Section B - LEED® Certified Coverage, whichever is applicable; or
  - (2) An additional 25% of the applicable limit of liability for the building and/or business personal property shown in the Statement of Values or similar schedule to upgrade to green; or
  - (3) USD2,500,000 to upgrade to green.

At the Insured's sole discretion, the Insured may elect not to upgrade to green any or all property for which upgrade to green coverage is provided under this endorsement. In such case, the Company will adjust the claim in accordance with the standard provisions of the Policy, as modified by all other applicable endorsements.

Subject to the least of (1), (2) or (3) above, if business interruption coverage is provided as part of this Policy, if necessary, the Period of Restoration shall be increased to allow for additional time to upgrade to green the damaged property plus up to an additional two week period to meet the requirements set forth in D.(2) below.

### **B. COVERAGE SECTION A: NON-LEED CERTIFIED COVERAGE**

In the event of direct physical loss or damage by any of the perils covered by the Policy to a building that is not LEED certified at the time of the loss, or to the personal property within such a building, the Company will pay to repair or replace damaged or destroyed:

- (1) Loss Settlement for Personal Property
  - (a) "Appliances" or "Office Equipment" with products of like kind and quality that have been identified as "ENERGY STAR®" or equivalent products of such energy efficiency. If there are no such products available at the time of the loss, this upgrade to green coverage does not apply.
  - (b) "Systems Furniture" or "Seating", with products of like kind and quality that are certified as GREENGUARD Indoor Air Quality Certified® or products with similar emissions

characteristics. If there are no such products available at the time of the loss, this upgrade to green coverage does not apply.

## (2) Loss Settlement for Your Building

### (a) Interior Finish Materials Upgrade

#### (i) Lower Emissions Products Upgrade Coverage

"Defined Building Materials" with products of like kind and quality that have "Lower Emissions". If there are no such products available at the time of the loss, this upgrade to green coverage does not apply.

#### (ii) Environmentally Preferable Products Upgrade Coverage

Interior wood, carpeting and flooring with products of like kind and quality that have "Lower Emissions", are "Sustainably Produced", are "Rapidly Renewable" or include "Recycled Content". If there are no such products available at the time of the loss, this upgrade to green coverage does not apply.

### (b) Interior Plumbing Systems Upgrade Coverage

Interior plumbing fixtures including, but not limited to, toilets, shower heads, and lavatory faucets with products of like kind and quality that are more "Water Efficient". If there are no such products available at the time of the loss, this upgrade to green coverage does not apply. For damaged or destroyed faucets, the Company will also pay to install occupant sensors to reduce the potable water demand.

### (c) Lighting Systems Upgrade Coverage

Lighting systems, with products of like kind and quality that have been identified as "ENERGY STAR" or equivalent products of such energy efficiency. If there are no such products available at the time of the loss, this upgrade to green coverage does not apply. The Company will also pay to repair or replace damaged light bulbs with light bulbs which have low mercury content.

### (d) Efficient Heating and Cooling Equipment Upgrade Coverage

"Heating and cooling equipment" with products of like kind and quality that have been identified as "ENERGY STAR" or equivalent products of such energy efficiency. If there are no such products available at the time of the loss, this upgrade to green coverage does not apply.

### (e) Building Reconstruction Following Total Loss

(i) Solely with respect to a "Total Loss" to a building, the Company will pay to replace the building on its existing foundation using the most cost effective techniques, products and materials that should satisfy the prerequisites and earn the minimum number of points required to qualify for LEED Silver certification using the LEED New Construction (LEED NC®) Rating System.

(ii) Certification Expenses

(A) The Company will pay the reasonable and necessary registration and certification fees charged by the United States Green Building Council (USGBC) that the Insured incurs should the Insured decide to seek LEED Silver certification. However, the Company will not pay to modify the reconstructed structure if it is not certified.

(B) The Sublimit of Insurance for this coverage is USD25,000.

#### C. COVERAGE SECTION B: LEED CERTIFIED COVERAGE

In addition to all Coverages provided in Coverage Section A (with the exception of 2.B. (5) Building Reconstruction Following a Total Loss) and in the event of direct physical loss or damage by any of the perils covered by the Policy to a building that is LEED certified at the time of the loss, or to the personal property within such building, the Company will pay to repair or replace damaged or destroyed:

##### (1) Loss Settlement for Trees, Shrubs, and Vegetative Roofs

(a) Trees and shrubs planted specifically to secure the Heat Island Effect: Non- Roof point as described in LEED NC. For the purposes of this coverage only, notwithstanding any other provision of the Policy to the contrary, trees and shrubs are Covered Property. The sublimit of insurance for this coverage is USD3,000 per tree or USD3,000 per shrub up to a maximum of USD25,000.

(b) Vegetative roofs on LEED certified buildings. Notwithstanding any other provision of the Policy to the contrary, vegetative roofs are Covered Property.

##### (2) Loss Settlement for Your Building

###### (a) Recertification Expenses

(i) In the event of direct physical loss or damage by any of the perils covered by the Policy that necessitates recertification of the damaged building, the Company will pay the reasonable and necessary registration and certification fees charged by the USGBC that the Insured incurs as a result of the recertification process.

(ii) The Sublimit of Insurance for this coverage is USD25,000.

###### (b) Building Reconstruction Following Total Loss

(i) Solely with respect to a "Total Loss" to a building that is LEED certified at the time of the loss, the Company will pay to replace the building on its existing foundation using the most cost effective techniques, products and materials that would satisfy the prerequisites and should earn the minimum number of points required to qualify for LEED certification at one level above the certification in effect at the time of the loss using the LEED NC Rating System.

###### (ii) Certification Expenses

(A) The Company will pay the reasonable and necessary registration and certification fees charged by the USGBC that the Insured incurs should the Insured decide to seek LEED certification. However, the Company will not pay to modify the reconstructed structure if it is not certified.

(B) The Sublimit of Insurance for this coverage is USD25,000.

**D. COVERAGES INCLUDED WITHIN COVERAGE SECTIONS A OR B AND APPLICABLE TO LEED® AND NON-LEED® CERTIFIED BUILDINGS**

In the event of direct physical loss or damage by any of the perils covered by the Policy to a LEED or Non-LEED certified building:

**(1) Recycling Expenses**

- (a) The Company will pay the Insured's expenses to clean-up, sort, segregate, and transport debris from the Insured's damaged building to recycling facilities, if such debris can be recycled.
- (b) The Sublimit of Insurance for this coverage is USD25,000 and is in addition to the debris removal expense sublimit provided by the Policy, if any.
- (c) Any income or remuneration derived from this recycling shall be used to reduce the loss.

**(2) Air Testing and Outdoor Air Ventilation of the Reconstructed Space**

- (a) In accordance with the requirements for the Construction IAQ Management Plan: Before Occupancy Credit as described in the LEED NC rating system (hereinafter, "Construction IAQ"), the Company will pay to conduct air testing and a building flush-out (if required because of a failure to meet air quality standards set forth in the Construction IAQ) and follow-up air testing for a total period of time not to exceed two weeks.
- (b) After the two week period of increased outdoor air ventilation of the reconstructed space, the Company will pay to replace the filtration media with new media.
- (c) The Sublimit of Insurance for this coverage is USD25,000.

**(3) Professional Services**

The Company will pay reasonable and necessary expenses to hire a LEED Accredited architect or engineer to participate in the design and/or construction administration of the damaged portion of the building or the entire building, whichever is applicable.

The Sublimit for this coverage is USD50,000.

**(4) Building Commissioning Expenses**

- (a) In the event of direct physical loss or damage to mechanical, electrical, or electronic building systems, by any of the perils covered by the Policy which necessitates the commissioning or re-commissioning of those systems, the Company will pay reasonable and necessary expenses of a Professional Engineer to commission or re-commission those damaged systems in accordance with LEED protocols.
- (b) The Sublimit of Insurance for this coverage is USD25,000.

**E. Additional Definitions**

- (1) "Appliances" means products including, but not limited to, dishwashers, refrigerators, freezers, ovens, microwave ovens, room air conditioners, room air cleaners and water heaters.
- (2) "Defined Building Materials" means: (1) all carpet and floor coverings, including, adhesives to affix them to the floor, (2) all interior paints, architectural coatings, primers, undercoatings, adhesives, sealants, and (3) permanently installed composite wood fixtures, including, counters, cabinets, and partitions.
- (3) "ENERGY STAR" means any product that has been identified by the United States Government Department of Energy, Environmental Protection Agency as ENERGY STAR qualified at the time of the loss.
- (4) "Heating and Cooling Equipment" means products including, but not limited to, heat pumps, boilers, central air conditioning, ceiling fans, dehumidifiers, exhaust fans, furnaces, thermostats, and ventilating fans.
- (5) "Lower emissions" means:
  - (a) With respect to adhesive and sealant products, such as, general construction adhesives, flooring adhesives, fire-stopping sealants, caulking, duct sealants, plumbing adhesives, and cove base adhesives, products that meet the requirements of South Coast Air Quality Management District (SCAQMD) Rule #1168; with respect to aerosol adhesives, products that meet Green Seal Standard GS-36 requirements;
  - (b) With respect to architectural paints, coatings, and primers, products that do not exceed the volatile organic compound (VOC) content limits established in Green Seal Standard GS-11, with respect to anti-corrosive and anti-rust paints, products that do not exceed the VOC content limits established in Green Seal Standard GS-03; and with respect to clear wood finishes, floor coatings, stains, and shellacs, products that do not exceed the VOC content limits established by SCAQMD Rule #1113;
  - (c) With respect to carpet and carpet cushion, products that meet the requirements of the Carpet and Rug Institute's Green Label Plus Program; and
  - (d) With respect to composite wood and agrifiber products such as particleboard, medium density fiberboard (MDF), plywood, wheatboard, strawboard, panel substrates and door cores as well as laminating adhesives used to fabricate on-site and shop-applied composite wood and agrifiber assemblies, products that contain no added urea- formaldehyde resins.
- (6) "Office Equipment" means electronic products including, but not limited to, desktop computers, laptop computers, monitors, printers, fax machines, scanners, copiers, and telephones.
- (7) "Recycled Content" means those products that contain at least 20% postconsumer recycled content.
- (8) "Rapidly Renewable" means products that are made from plant resources that are harvested within a ten-year cycle or shorter, including, but not limited to, bamboo, eucalyptus, wheat straw, sunflower hulls, cork oak, wheatboard, linoleum, and sorghum.
- (9) "Seating" means task and guest chairs used with "System Furniture".
- (10) "Sustainably Produced" means those products certified by the Forest Stewardship Council ("FSC").

(11) "System Furniture" means either a panel-based workstation comprised of modular interconnecting panels, hang-on components and drawer/filing components of a freestanding grouping of furniture items and their components that have been designed to work in concert.

(12)"Total Loss" means:

- (a) The covered building is completely destroyed regardless of whether any damage is done to the foundation or slab, or
- (b) The covered building is in such condition after the loss that the standard method of rebuilding or repairing the covered building is to raze the structure except for the foundation or slab or including all or part of the foundation or slab and rebuild the entire structure, whether such structure is actually rebuilt or not.
- (c) Water Efficient" means dry fixtures such as composting toilet systems and non- water using urinals, flush toilets using no more than 1.6 gallons of water per flush, and shower heads and faucets with a flow rate of no more than 2.2 gallons per minute.

All other terms and conditions of the Policy remain the same.



## **Policy Change Endorsement 20 - Company Specific Forms**

The following provisions are hereby attached to and made part of this Policy:

In addition to each Company(ies)'s Declaration's Page (excluding any pre-printed terms and conditions), Price, Renewal Date, Premium Credits, Premium Payment Conditions, State Statute Amendatory Endorsements and Producer Compensation Notices / Disclosures, if applicable; the following Company(ies)'s endorsements, forms, exclusions, etc...are added and apply only towards the individual Company(ies) to which such is noted. No other Company(ies) may claim such wording as their own, whether more or less restrictive, in the event of loss to apply against all recovery.

The terms and conditions contained within this policy shall supersede those of any General Policy Conditions; General Property Conditions; terms and conditions within a Policy Jacket; Fire Policy Form; terms and conditions of the Declarations Page which conflict with the policy; and any other endorsements or conditions added by the Company(ies) upon policy's issuance or thereafter which are not noted in the above paragraph or listed below or have not been previously advised and agreed to by the Insured.

Engineering fees, loss prevention fees, object certificates fees, plan reviews and subsequent services / products, surplus lines taxes and fees, US FET Taxes and various state and local taxes and fees such as the Florida Fire College Trust Fund and Florida Emergency Mgmt, Preparedness & Assist. Fund Trust for the State of Florida and/or other state assessments should be viewed as unequal as charged on an individual Company basis separately from premium.

## **ENDORSEMENT #021**

**This endorsement, effective 12:01 AM, 06/01/2019**  
**Forms a part of Policy No.: 061818930**  
**Issued to: SHOPPING CENTER MANAGEMENT GROUP**  
**DBA TURNBERRY ASSOCIATES**  
**By: LEXINGTON INSURANCE COMPANY**

### **STANDARD PROPERTY CONDITIONS**

This endorsement modifies insurance provided by the Policy:

The following provisions are hereby made part of this Policy. These provisions shall take precedence if and to the extent there is a conflict with any other policy provision(s).

#### **MINIMUM EARNED PREMIUM CLAUSE**

In the event of cancellation of this Policy by the Insured, a minimum premium of \$330,000 shall become earned, any provision of the Policy to the contrary notwithstanding. Failure of the Insured to make timely payment of premium shall be considered a request by the Insured for the Company to cancel on the Insured's behalf. In the event of such cancellation for non-payment of premium, the minimum earned premium shall be due and payable; provided, however, such cancellation shall be rescinded if the Insured remits and the Company receives the full policy premium with 10 days after the date of issuance of the cancellation notice. Such remittance and acceptance by the Company shall not affect the minimum earned premium provision of this endorsement. In the event of any other cancellation by the Company, the earned premium shall be computed pro-rata, not subject to the minimum earned premium.

#### **CANCELLATION CLAUSE**

Except and to the extent of the Minimum Earned Premium Clause which is part of this Policy, this clause supersedes other cancellation clauses made a part of this Policy.

**CANCELLATION:** This Policy may be cancelled by the Insured by surrender thereof to the Company or by mailing to the Company written notice stating when thereafter such cancellation shall be effective. This Policy may be cancelled by the Company by mailing to the Insured, at the mailing address shown in this Policy or last known address, written notice, stating when, not less than 90 days thereafter (10 days for non-payment of premium) such cancellation shall be effective. The effectiveness of cancellation is not dependent on the return of unearned premium with the notice. Proof of mailing of notice as aforesaid shall be sufficient proof of notice. The effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the Insured or the Company shall be equivalent to mailing. If the Insured cancels, earned premium shall be computed in accordance with the customary short rate table and procedure. If the Company cancels, earned premium shall be computed pro rata. Premium adjustment shall be made as soon as practicable after cancellation becomes effective.

#### **SERVICE OF SUIT CLAUSE**

In the event of failure of the Company to pay any amount claimed to be due hereunder, the Company, at the request of the Insured, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this condition constitutes or should be understood to constitute a waiver of the Company's rights to commence an action in any court of competent jurisdiction in the United States to remove an action to a United States District Court or to seek a

transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon Counsel, Legal Department, Lexington Insurance Company, 99 High Street, Boston, Massachusetts 02110 or his or her representative, and that in any suit instituted against the Company upon this Policy, the Company will abide by the final decision of such court or of any appellate court in the event of an appeal.

Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefor, the Company hereby designates the Superintendent, Commissioner or Director of Insurance, or other officer specified for that purpose in the statute, or his or her successors in office, as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the Insured or any beneficiary hereunder arising out of this Policy of insurance, and hereby designates the above named Counsel as the person to whom the said officer is authorized to mail such process or a true copy thereof.

#### **WAR RISK EXCLUSION CLAUSE**

The Company shall not be liable for any loss, caused directly or indirectly, by (1) hostile or warlike action in time of peace or war, whether or not declared, including action in hindering, combating or defending against an actual, impending or expected attack (a) by government or sovereign power (dejure 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 force (2) any weapon of war employing atomic fission or radioactive force whether in time of peace or war, whether or not its discharge was accidental; (3) insurrection, rebellion, revolution, civil war, usurped power, or action taken by government authority in hindering, combating, or defending against such an occurrence, seizure or destruction; (4) any consequence of any of the foregoing.

#### **NUCLEAR EXCLUSION CLAUSE**

The Company shall not be liable for loss by nuclear reaction or nuclear radiation or radioactive contamination all whether controlled or not, and whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril(s) insured against in this Policy. If the peril of fire is insured under this Policy, then, 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. This Policy does insure against loss or damage caused by sudden and accidental radioactive contamination, including resultant radiation damage, from material used or stored or from processes conducted on the Insured premises, provided that, at the time of such loss or damage, there is neither a nuclear reactor nor any new or used nuclear fuel on the Insured premises.

#### **SALVAGE AND RECOVERY CLAUSE**

All salvages, recoveries, and payments (other than proceeds from subrogation and underlying insurance), will accrue entirely to the benefit of the Company until the sum paid or payable by the Company is recovered or reduced as applicable.

#### **REQUIREMENTS IN CASE OF LOSS**

The Insured shall:

1. Give prompt written notice of any loss or damage to the Company,
2. Promptly contact the applicable authority having jurisdiction in the event a law has been broken, and promptly file a written report with such authority,

3. Protect the property from further loss or damage,
4. Separate the damaged and undamaged personal property,
5. Maintain such property in the best possible order, and
6. Furnish a complete inventory of the lost, destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed,
7. Furnish all other documents or insurance policies that the Company may reasonably require,
8. Allow the Company to access and inspect any of the damaged or undamaged property, and
9. Submit to examination under oath at such times as may be reasonably required about any matter relating to this insurance or any claim;

#### **PROOF OF LOSS AND PAYMENT**

The Insured shall complete and sign a sworn proof of loss within sixty (60) days after the Company's request stating the time and origin of the loss, the interest of the Insured and of all others in the property, the value of each item thereof determined in accordance with the Valuation conditions of this Policy and the amount of loss or damage thereto and all encumbrances thereon, all other contracts of insurance, whether collectible or not, covering any of said property and any changes in the title, use, occupation, location, possession or exposures of said property subsequent to the issuance 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 whether or not it then stood on leased ground. All adjusted claims shall be due and payable thirty (30) days after the presentation and acceptance of satisfactory proof(s) of loss at the office of the Company at 99 High Street, Boston, Massachusetts 02110.

#### **GOVERNMENT ACTIVITY CLAUSE**

The Company shall not be liable for any loss or damage caused directly or indirectly by the seizure, confiscation or destruction of insured property by any governmental body or public authority, including any customs or quarantine action. This exclusion shall not apply to an order or action of a governmental body or public authority to destroy insured property for the purpose of preventing the spread of fire or explosion nor to the enforcement of any law or ordinance relating to the construction or repair of damaged property as covered by DEMOLITION AND INCREASED COST OF CONSTRUCTION of this Policy.

All other terms and conditions of the Policy remain the same.



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Authorized Representative

## ENDORSEMENT #022

This endorsement, effective 12:01 AM, 06/01/2019  
Forms a part of Policy No.: 061818930  
Issued to: SHOPPING CENTER MANAGEMENT GROUP  
DBA TURNBERRY ASSOCIATES  
By: LEXINGTON INSURANCE COMPANY

### TERRORISM EXCLUSION ENDORSEMENT

This endorsement modifies insurance provided by the Policy:

This insurance does not cover loss or damage caused directly or indirectly by **terrorism** whether controlled or uncontrolled, proximate or remote, sudden or over any length of time, or which is contributed to or aggravated by any other cause or event. Such **terrorism** is excluded regardless of any other cause or event occurring concurrently or in any sequence with such **terrorism**.

As used herein, **terrorism** means the use or threatened use of force or violence against a person or property, or commission of an act dangerous to human life or property, or commission of an act that interferes with or disrupts an electronic or communication system, undertaken by any person or group, whether or not acting on behalf of or in any connection with any organization, government, power, authority or military force, when the effect is to intimidate, coerce or harm:

- a. A government;
- b. The civilian population of a country, state or community; or
- c. Disrupt the economy of a country, state or community.

So long as the Terrorism Risk Insurance Act of 2002, and any revisions or amendments thereto is in effect (the "Act"), **terrorism** includes a certified act of terrorism defined by Section 102. Definitions of the Act.

All other terms and conditions of the Policy remain the same.



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Authorized Representative

**ENDORSEMENT #023**

**This endorsement, effective 12:01 AM, 06/01/2019**  
**Forms a part of Policy No.: 061818930**  
**Issued to: SHOPPING CENTER MANAGEMENT GROUP**  
**DBA TURNBERRY ASSOCIATES**  
**By: LEXINGTON INSURANCE COMPANY**

**ECONOMIC SANCTIONS ENDORSEMENT**

This endorsement modifies insurance provided by the Policy:

The Insurer shall not be deemed to provide cover and the Insurer shall not be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the Insurer, its parent company or its ultimate controlling entity to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union or the United States of America.

All other terms and conditions of the Policy remain the same.



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Authorized Representative

**ENDORSEMENT #024**

**This endorsement, effective 12:01 AM, 06/01/2019**  
**Forms a part of Policy No.: 061818930**  
**Issued to: SHOPPING CENTER MANAGEMENT GROUP**  
**DBA TURNBERRY ASSOCIATES**  
**By: LEXINGTON INSURANCE COMPANY**

**CONFISCATION, EXPROPRIATION AND NATIONALIZATION EXCLUSION  
ENDORSEMENT**

This endorsement modifies insurance provided by the Policy:

The Company does not insure for loss or damage to real or personal property caused directly or indirectly by confiscation, expropriation, nationalization, seizure, appropriation, commandeering, requisition for use or title, or destruction of or damage to such property, by order of any de jure or de facto: government, sovereign power, civil authority or military authority, including any action taken under any quarantine or customs regulations.

Such loss or damage is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss or damage.

All other terms and conditions of the Policy remain the same.

A handwritten signature in black ink that reads "Michael Martin". The signature is written in a cursive, flowing style.

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Authorized Representative

**ENDORSEMENT #025**

**This endorsement, effective 12:01 AM, 06/01/2019**

**Forms a part of Policy No.: 061818930**

**Issued to: SHOPPING CENTER MANAGEMENT GROUP**

**DBA TURNBERRY ASSOCIATES**

**By: LEXINGTON INSURANCE COMPANY**

**ELECTRONIC DATA ENDORSEMENT B**

This endorsement modifies insurance provided by this Policy:

**1. Electronic Data Exclusion**

Notwithstanding any provision to the contrary within the Policy or any endorsement thereto, it is understood and agreed as follows:

- a) This Policy does not insure loss, damage, destruction, distortion, erasure, corruption or alteration of ELECTRONIC DATA from any cause whatsoever (including but not limited to COMPUTER VIRUS) or loss of use, reduction in functionality, cost, expense of whatsoever nature resulting therefrom, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

ELECTRONIC DATA means facts, concepts and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.

COMPUTER VIRUS means a set of corrupting, harmful or otherwise unauthorised instructions or code including a set of maliciously introduced unauthorised instructions or code, programmatic or otherwise, that propagate themselves through a computer system or network of whatsoever nature. COMPUTER VIRUS includes but is not limited to 'Trojan Horses', 'worms' and 'time or logic bombs'.

- b) However, in the event that a peril listed below results from any of the matters described in paragraph a) above, this Policy, subject to all its terms, conditions and exclusions, will cover physical damage occurring during the Policy period to property insured by this Policy directly caused by such listed peril.

Listed Perils:

Fire, Explosion

**2. Electronic Data Processing Media Valuation**

Notwithstanding any provision to the contrary within the Policy or any endorsement thereto, it is understood and agreed as follows:

Should electronic data processing media insured by this Policy suffer physical loss or damage insured by this Policy, then the basis of valuation shall be the cost of the blank media plus the costs of copying the ELECTRONIC DATA from back-up or from originals of a previous generation. These costs will not include research and engineering nor any costs of recreating, gathering or assembling such ELECTRONIC DATA. If the media is not repaired, replaced or restored the basis of valuation shall be the cost of the blank media. However this Policy does not insure any amount pertaining to the value of such ELECTRONIC DATA



to the Assured or any other party, even if such ELECTRONIC DATA cannot be recreated, gathered or assembled.

All other terms and conditions of the Policy remain the same.

A handwritten signature in black ink that reads "Michael Martin". The signature is written in a cursive, flowing style.

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Authorized Representative

## ENDORSEMENT #026

This endorsement, effective 12:01 AM, 06/01/2019

Forms a part of Policy No.: 061818930

Issued to: SHOPPING CENTER MANAGEMENT GROUP

DBA TURNBERRY ASSOCIATES

By: LEXINGTON INSURANCE COMPANY

### HIGH HAZARD WIND ZONES ENDORSEMENT

This endorsement modifies insurance provided by the Policy:

The following definitions are added to the **DEFINITIONS** section:

1. **Tier 1 High Hazard Wind Zones (Texas to North Carolina, Hawaii, Puerto Rico and U.S. Virgin Islands)** means the following wind zones:

TIER 1 HIGH HAZARD WIND ZONES (TEXAS TO NORTH CAROLINA, HAWAII, PUERTO RICO AND U.S. VIRGIN ISLANDS)	
State	Geographic Areas
Alabama	Counties: Baldwin, Mobile
Georgia	Counties: Bryan, Camden, Chatham, Glynn, Liberty, McIntosh
Hawaii	Entire State
Louisiana	Parishes: Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (South), St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion
Mississippi	Counties: Hancock, Harrison, Jackson
North Carolina	Counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Currituck, Dare, Hyde, Jones, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrell, Washington
Puerto Rico	Entire Territory
South Carolina	Counties: Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Hampton, Horry, Jasper
Texas	Counties: Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Harris, Jackson, Jefferson, Kenedy, Kleberg, Liberty, Matagorda, Newton, Nueces, Orange, Refugio, San Patricio, Victoria, Willacy
U.S. Virgin Islands	Entire Territory

2. **Tier 1 High Hazard Wind Zones (Virginia to Maine)** means the following wind zones:

TIER 1 HIGH HAZARD WIND ZONES (VIRGINIA TO MAINE)	
State	Geographic Areas
Connecticut	Counties: Fairfield, Middlesex, New Haven, New London
Delaware	Counties: Sussex
Maine	Counties: Androscoggin, Cumberland, Hancock, Knox, Lincoln, Sagadahoc, Waldo, Washington, York
Maryland	Counties: Calvert, Charles, Dorchester, St. Mary's, Somerset, Wicomico, Worcester

Massachusetts	Counties: Barnstable, Bristol, Dukes, Essex, Nantucket, Norfolk, Plymouth, Suffolk
New Hampshire	Counties: Rockingham, Strafford
New Jersey	Counties: Atlantic, Bergen, Cape May, Cumberland, Essex, Hudson, Middlesex, Monmouth, Ocean, Union
New York	Counties: Bronx, Kings, Nassau, New York, Queens, Richmond, Suffolk, Westchester
Rhode Island	Counties: Bristol, Kent, Newport, Providence, Washington
Virginia	Counties: Accomack, Charles City, Gloucester, Isle of Wight, James City, Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Prince George, Surry, Sussex, York, Westmoreland Independent Cities: Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, Williamsburg

3. **Tier 1 High Hazard Wind Zones (Florida)** means the following wind zones:

TIER 1 HIGH HAZARD WIND ZONES (FLORIDA)	
State	Geographic Areas
Florida	Entire State

All other terms and conditions of the Policy remain the same.




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Authorized Representative

## ENDORSEMENT #027

This endorsement, effective 12:01 AM, 06/01/2019  
Forms a part of Policy No.: 061818930  
Issued to: SHOPPING CENTER MANAGEMENT GROUP  
DBA TURNBERRY ASSOCIATES  
By: LEXINGTON INSURANCE COMPANY

### POLLUTION, CONTAMINATION, DEBRIS REMOVAL EXCLUSION ENDORSEMENT

This endorsement modifies insurance provided by the Policy:

#### 1. Property Not Covered

This Policy does not cover land, land values or water.

#### 2. Pollution and Contamination Exclusion.

This Policy does not cover loss or damage caused by, resulting from, contributed to or made worse by actual, alleged or threatened release, discharge, escape or dispersal of CONTAMINANTS or POLLUTANTS, all whether direct or indirect, proximate or remote or in whole or in part caused by, contributed to or aggravated by any physical damage insured by this Policy.

Nevertheless, if fire is not excluded from this Policy and a fire arises directly or indirectly from seepage or contamination or pollution, any loss or damage insured under this Policy arising directly from that fire is insured, subject to the provisions of this Policy.

CONTAMINANTS or POLLUTANTS means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste, which after its release can cause or threaten damage to human health or human welfare or causes or threatens damage, deterioration, loss of value, marketability or loss of use to property insured hereunder, including, but not limited to, bacteria, virus, or hazardous substances as listed in the Federal Water, Pollution Control Act, Clean Air Act, Resource Conservation and Recovery Act of 1976, and Toxic Substances Control Act or as designated by the U. S. Environmental Protection Agency. Waste includes materials to be recycled, reconditioned or reclaimed.

This exclusion shall not apply when loss or damage is directly caused by fire, lightning, aircraft impact, explosion, riot, civil commotion, smoke, vehicle impact, windstorm, hail, vandalism, malicious mischief. This exclusion shall also not apply when loss or damage is directly caused by leakage or accidental discharge from automatic fire protective systems.

#### 3. Asbestos, Dioxin or Polychlorinated Biphenyls Exclusions

This Policy does not cover –

- a) Asbestos, dioxin or polychlorinated biphenyls (hereinafter all referred to as "Materials") removal from any good, product or structure unless the asbestos is itself damaged by fire, lightning, aircraft impact, explosion, riot, civil commotion, smoke, vehicle impact, windstorm or hail, vandalism, malicious mischief, or leakage or accidental discharge from automatic fire protective system.

- b) Demolition or increased cost of reconstruction, repair, debris removal or loss of use necessitated by the enforcement of any law or ordinance regulating such Materials;
- c) Any governmental direction or request declaring that such Materials present in or part of or utilized on any undamaged portion of the insured's property can no longer be used for the purpose for which it was intended or installed and must be removed or modified.

The exception to exclusion 3(a), above, does not apply to payment for the investigation or defense of any loss, damage or any undamaged portion of the insured's property that can no longer be used for the purpose for which it was intended

#### **4. Debris Removal Exclusion**

The Company will pay the expense within the sum insured to remove debris of insured property damaged or destroyed by an insured peril during the policy term.

The Company will not pay the expense to:

- a) Extract contaminants or pollutants from the debris; or
- b) Extract contaminants or pollutants from land or water; or
- c) Remove, restore or replace contaminated or polluted land or water; or
- d) Remove or transport any property or debris to a site for storage or decontamination required because the property or debris is affected by pollutants or contaminants, whether or not such removal, transport, or decontamination is required by law or regulation.

It is a condition precedent to recovery under this extension that the Company shall have paid or agreed to pay for direct physical loss or damage to the property insured hereunder and that the Insured shall give written notice to the Company of intent to claim for cost of removal of debris or cost to clean up not later than 180 days after the date of such physical loss or damage.

#### **5. Authorities Exclusion**

Notwithstanding any of the provisions of this Policy, the Company shall not be liable for loss, damage, costs, expenses, fines or penalties incurred or sustained by or imposed on the Insured at the order of any Government Agency, Court or other Authority arising from any cause whatsoever.

All other terms and conditions of the Policy remain the same.



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Authorized Representative

## ENDORSEMENT #028

This endorsement, effective **12:01 AM**, 06/01/2019  
Forms a part of Policy No.: 061818930  
Issued to: SHOPPING CENTER MANAGEMENT GROUP  
DBA TURNBERRY ASSOCIATES  
By: LEXINGTON INSURANCE COMPANY

### LEXINGTON GENERAL CHANGE ENDORSEMENT

This endorsement modifies insurance provided by the Policy:

#### Sub-Limits;

Not Covered	Per Occurrence and Annual Aggregate for the peril of <b>Earth Movement in California, Alaska and/or Hawaii.</b>
Not Covered	Per Occurrence and Annual Aggregate for the peril of <b>Earth Movement in New Madrid Earthquake Zone Counties.</b>
Not Covered	Per Occurrence and Annual Aggregate for the peril of <b>Earth Movement in Pacific Northwest Earthquake Zone Counties</b>
\$2,000,000	Contractors Equipment
\$15,000,000	Property in the Open, including Plants, Trees and Shrubs, walkways and patios
\$10,000,000	Leader Property

#### Deductible;

**Minimum Deductible for all Perils is \$100,000 per Occurrence**

#### SFHA Flood

As respects for all covered loss or damage arising out of flood at any property wholly or partially in a Special Flood Hazard Area (SFHA) at the time of the loss as defined by the Federal Emergency Management Agency (FEMA).

- \$500,000 each building and / or structure involved in the loss or damage at the covered location;
- \$500,000 for all personal property in the open or contained within such building and / or structure involved in the loss or damage at the covered location;
- \$100,000 for time element at each covered location;

As used above, building means a building or structure, including all additions, improvements and betterments and includes all associated property used to service such buildings, such as air conditioning units, heating units, utility units or other similar property.

#### Wind and Hail

5% of the reported value per unit of insurance at the time when such loss occurs at locations within the State of Florida; and, 3% at locations within Tier 1 High Hazard Wind

Zones for the peril of Named Windstorm for which a claim is being made subject to a minimum of USD250,000 per occurrence,

**Unit of insurance** means:

- a. Each **building** and/or each structure involved in the loss or damage at the **covered location**;
- b. All personal property contained within such **building** and/or such structure at the **covered location**;
- c. All personal property in the open involved in the loss or damage at the **covered location**; and/or
- d. All time element values at the **covered location**.

**Building** means a building or structure, including all additions, improvements and betterments and includes all associated property used to service such **building**, such as air conditioning units, heating units, utility units or other similar property.

**Property Excluded:**

- Accounts, bills, currency, notes, evidences of debt.
- Air Supported Structures
- Grain Elevators
- Animals

All other terms and conditions of the Policy remain the same.



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Authorized Representative

## ENDORSEMENT #029

This endorsement, effective 12:01 AM, 06/01/2019

Forms a part of Policy No.: 061818930

Issued to: SHOPPING CENTER MANAGEMENT GROUP  
DBA TURNBERRY ASSOCIATES

By: LEXINGTON INSURANCE COMPANY

### RESTATEMENT OF DEDUCTIBLE ENDORSEMENT

This endorsement modifies insurance provided by the Policy:

The following provision is added to the Policy:

#### Restatement of Deductible

- a. In cases where SHOPPING CENTER MANAGEMENT GROUP, DBA TURNBERRY ASSOCIATES (hereinafter the "Named Insured") is required by a written contract with a third party to have in effect property insurance subject to a deductible that is less than the deductible(s) set forth in the Policy (hereinafter, "Policy Deductible(s)"), upon the request of the Named Insured, the Company will permit the Named Insured's broker, MARSH USA, INC. (hereinafter, "the Broker"), to issue a certificate of insurance (hereinafter, "Certificate") confirming issuance of the Policy and reflecting a deductible(s) for an amount(s) that is less than the Policy Deductible. Accordingly, in the event of a property loss for which the Company is otherwise liable under the Policy, in the case of a third party to whom a Certificate has been issued specifying a deductible(s) that is less than the Policy Deductible(s), the deductible(s) applicable to such property loss shall be the lesser deductible(s) specified by the Certificate.
- b. The Named Insured agrees that, except with respect to the Company's obligation to apply a deductible that is less than the Policy Deductible(s) in the case of a third party to whom a Certificate has been issued pursuant to Paragraph a., the undertakings set forth in Paragraph a. do not constitute an amendment to the Policy and do not change the obligations under the Policy, including as respects the Named Insured's obligations with respect to the Policy Deductible(s). Accordingly, the Named Insured, regardless of the content of any Certificate, agrees that, at the request of the Company, the Named Insured shall in the first instance absorb or pay (as the case may be) any and all loss and loss adjustment amounts that are below or within the Policy Deductible(s), and will save the Company harmless in accordance with Paragraph c., below, from any loss or loss adjustment amounts whatsoever that are below or within the Policy Deductible(s).
- c. The Named Insured agrees to reimburse, indemnify, save harmless and defend the Company, its officers, agents, employees and reinsurers against any and all claims, liabilities, losses, expenses, suits or actions at law or in equity, and all other costs and expenses incurred by the Company by reason of a Certificate issued pursuant to Paragraph a., including but not limited to loss and loss adjustment amounts that are below or within the Policy Deductible(s), expenses, damages, costs, attorneys' fees, fines, and administrative penalties. The Company shall give written notice to the Named Insured of any such claim for indemnification. The Named Insured acknowledges and agrees that the intent of the Named Insured and the Company is that, as between the Named Insured and the Company, any liability, loss, expense or cost of any nature whatsoever arising out of a Certificate(s) issued pursuant to Paragraph a. restating the deductible(s) under the Policy to



an amount(s) that is lesser than the Policy Deductible(s) shall be the Named Insured's responsibility.

- d. If pursuant to Paragraph a. the Company is required to make payment(s) with respect to a property loss specified by a Certificate, whether to a third party to whom such Certificate has been issued or to anyone else, or if as a consequence of issuance of a Certificate pursuant to Paragraph a., the Company is required to make any other payments for which the Named Insured is obligated to reimburse and indemnify the Company as provided by Paragraph c., the Named Insured agrees promptly to reimburse the Company within thirty (30) days after receiving written notice of any such payments. If any payments for which the Company has notified the Named Insured are to be reimbursed to the Company have not been paid in full within such thirty (30) day period, interest on any outstanding amount of such payments shall accrue daily at the prime rate in effect on that date at Citibank, N.A., New York, New York.
- e. Under this endorsement, notice to a party shall be deemed given if mailed by U.S. mail, first class, postage prepaid, to the following addresses:

To: the Named Insured:  
SHOPPING CENTER MANAGEMENT GROUP  
DBA TURNBERRY ASSOCIATES  
1950 BISCAYNE BLVD, SUITE 400  
AVENTURA, FL 33180  
Attention:

To: the Broker:  
MARSH USA, INC.  
3560 LENOX ROAD, SUITE 2400  
ATLANTA, GA 30326  
Attention: SUMBUL BABAR

To: the Company:  
Lexington Insurance Company  
99 High Street  
Boston, Massachusetts 02110  
Attention: Legal Department

- f. This endorsement represents the entire understanding of the parties with respect to the subject matter hereof, and the parties hereby acknowledge that the contents hereof are separate and distinct from, and are not intended to supersede or modify, the respective rights and obligations of the parties set forth in the Policy, including the Policy Deductible(s).
- g. This endorsement may be amended or modified only by an instrument in writing signed by the Named Insured and the Company.
- h. This endorsement shall survive the expiration, termination or cancellation of the Policy until all of the parties' rights and obligations hereunder have been fully satisfied and all claims under the Policy have been resolved and paid.

All other terms and conditions of the Policy remain the same.

A handwritten signature in black ink that reads "Michael Martin". The signature is written in a cursive, flowing style.

---

Authorized Representative

## ENDORSEMENT #032

**This endorsement, effective 12:01 AM, 06/01/2019**

**Forms a part of Policy No.: 061818930**

**Issued to: SHOPPING CENTER MANAGEMENT GROUP DBA TURNBERRY ASSOCIATES**

**BY: LEXINGTON INSURANCE COMPANY**

### POLICY PERIOD AMENDATORY ENDORSEMENT

This endorsement modifies insurance provided by the Policy:

- I. Item 2. **Policy Period** of the COMMERCIAL PROPERTY POLICY DECLARATIONS is deleted in its entirety and replaced with the following:

ITEM 2. Policy Period: From 06/01/2019 To 06/01/2020

at 12:01 AM Standard Time at the location of the property involved.

- II. Item 2. TERM OF INSURANCE of the Policy is deleted in its entirety and is replaced with the following:

In consideration of the Premium paid, this policy attaches and covers for a period, from June 1, 2019 to June 1, 2020, beginning and ending at 12:01 A.M., standard time, at the location of the property involved.

All other terms and conditions of the Policy remain the same.



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Authorized Representative

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**EXHIBIT D**



Allianz Underwriters Insurance Company  
225 West Washington Street, Suite 1800,  
Chicago, IL 60606

## COMMERCIAL LINES POLICY

**THIS POLICY CONSISTS OF:**

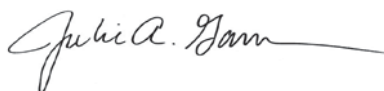
- **DECLARATIONS**
- **ONE OR MORE COVERAGE PARTS. A**

**COVERAGE PART CONSISTS OF:**

- **ONE OR MORE COVERAGE FORMS**
- **APPLICABLE FORMS AND ENDORSEMENTS**

**In Witness Whereof**, we have caused this policy to be executed and attested, and if required by state law, this policy shall not be valid unless countersigned by our authorized representative.

Secretary

Handwritten signature of Juli A. Gann in cursive script.

President and Chief Executive Officer

Handwritten signature of William Schulz in cursive script.

**POLICY NUMBER:** U5L000150180

**ENVIRONMENTAL LIABILITY POLICY DECLARATIONS  
ENVIRONMENT PROTECT PREMISES**

**THIS IS A CLAIMS-MADE POLICY. PLEASE READ THIS POLICY CAREFULLY.**

**INSURER:**

**Allianz Underwriters Insurance Company**

225 W. Washington St., Suite 1800

Chicago, IL 60606

a Stock insurance company incorporated under the laws of Illinois, herein called the Company

**PRODUCER:**

Willis of Georgia, Inc.

5 Concourse Parkway

18<sup>th</sup> Floor

Atlanta, GA 30328

**ITEM 1. FIRST NAMED INSURED  
MAILING ADDRESS**

Shopping Center Management dba Turnberry Associates

19501 Biscayne Boulevard, Suite 400

Aventura, FL 33180

**ITEM 2. POLICY PERIOD**

FROM April 09, 2018 TO April 09, 2021

At 12:01 A.M at the address of the First Named Insured shown above.

**ITEM 3. RETROACTIVE DATE**

See Endorsement

**ITEM 4. PREMIUM**

Policy Premium

\$ 149,708

Certified Terrorism Premium

\$ 4,491

Total Premium

\$ 154,199

**ITEM 5. ENDORSEMENTS ATTACHED TO THIS POLICY AT INCEPTION**

See Forms and Endorsements List attached

**ITEM 6. AGGREGATE LIMITS OF LIABILITY**

\$ 10,000,000

**ITEM 7: PURCHASED COVERAGE SECTIONS – DEDUCTIBLES AND LIMITS OF LIABILITY**

Coverage is applicable only under the purchased Coverage Part(s) selected below. If there is no entry for a Coverage Part that Coverage Part has not been purchased. Deductibles and Limits of Liability are completed in this Item 7, only for purchased Coverage Part(s).

Purchased Insuring Agreement	Each Incident Deductible	Each Incident Limit	Coverage Section Aggregate Limit
A. Own site Clean-up Costs	\$ 100,000	\$ 10,000,000	\$ 10,000,000
B. Legal Liability	\$ 100,000	\$ 10,000,000	\$ 10,000,000

C. Emergency Response Costs	\$ 100,000	\$ 10,000,000	\$ 10,000,000
D. Business Interruption	3 Days	\$ 10,000,000	\$ 10,000,000

# **ITEM 8: NOTICES**

## **1. Notices to First Named Insured**

**Shopping Center Management dba Turnberry Associates**  
19501 Biscayne Boulevard, Suite 400  
Aventura, FL 33180

## **2. Notices to the Company of any matter or factor that may give rise to coverage under the Policy, including without limitation, occurrences, crises, emergencies, claims or pollution conditions, or imminent threats**

**Allianz Underwriters Insurance Company**  
225 W. Washington St., Suite 1800  
Chicago, IL 60606

## **3. All other notices to the Company**

**Allianz Underwriters Insurance Company**  
225 W. Washington St., Suite 1800  
Chicago, IL 60606

Surplus Lines Broker Name	Brian Smith
Surplus Lines Broker Address	Willis of Georgia, Inc. 5 Concourse Parkway 18 <sup>th</sup> Floor Atlanta, GA 30328

This Declarations page, together with the attached Policy form, any applications, schedules and endorsements thereto, will constitute the contract between the Company and the Insured.



## FORMS AND ENDORSEMENT LIST

**NAMED INSURED:** Shopping Center Management dba Turnberry Associates

**POLICY NUMBER:** U5L000150180

**EFFECTIVE DATE:** April 9, 2018

The following policy forms and endorsements have been attached to and made a part of the policy at inception.

End #	Endorsement Title	Form #
	ENVIRONMENT PROTECT PREMISES POLICY DECLARATIONS	AGRL-PO 1005 (01-17)
	FORMS AND ENDORSEMENT LIST	AGR-DS 1002 (11-03)
	AGCS CLAIM REPORTING OPTIONS	20054 (01-17)
	POLICYHOLDER NOTICE ENVIRONMENTAL LIABILITY	AGRL-PO 8005 (11-16)
	ENVIRONMENT PROTECT PREMISES POLICY	AGRL-PO 2010 (09-16)
	OFAC POLICYHOLDER NOTICE	MANUSCRIPT
1.	CERTIFIED ACTS OF TERRORISM COVERAGE	AGRL-PO 5041 (10-16)
2.	CRISIS MANAGEMENT RESPONSE COST AND CRISIS MANAGEMENT LOSS COVERAGE EXTENSION	MANUSCRIPT
3.	SCHEDULE OF APPROVED CRISIS MANAGEMENT FIRMS	MANUSCRIPT
4.	LEGAL LIABILITY COVERAGE AGREEMENT ENDORSEMENT	MANUSCRIPT
5.	MINIMUM EARNED PREMIUM (MULTI-YEAR) & CANCELLATION ENDORSEMENT	MANUSCRIPT
6.	DEFINITION OF RESPONSIBLE INSURED ENDORSEMENT	MANUSCRIPT
7.	DEFENSE COSTS SEPARATE LIMIT ENDORSEMENT	MANUSCRIPT
8.	AUTOMATIC ACQUISITION ENDORSEMENT	MANUSCRIPT
9.	FINANCIAL RESPONSIBILITY FOR STORAGE TANK SYSTEM(S) ENDORSEMENT	MANUSCRIPT
10.	ADDITIONAL INSURED ENDORSEMENT	MANUSCRIPT
11.	ADDITIONAL INSURED FOR SCHEDULED INSURED'S OWN SITE ENDORSEMENT	MANUSCRIPT
12.	NAMED INSURED – SCHEDULED ENTITIES ENDORSEMENT	MANUSCRIPT

13.	KNOWN CLAIM EXCLUSION ENDORSEMENT	MANUSCRIPT
14.	SCHEDULE OF INSURED CONTRACT ENDORSEMENT	MANUSCRIPT
15.	DEDUCTIBLE INCIDENT, AGGREGATE AND MAINTENANCE ENDORSEMENT	MANUSCRIPT
16.	DISCLOSED DOCUMENT ENDORSEMENT	MANUSCRIPT
17.	OTHER INSURANCE AMENDATORY (PRIMARY AND NON CONTRIBUTORY EXCEPT FOR MICROBIAL MATTER OR TANK FUND) ENDORSEMENT	MANUSCRIPT
18.	SITE SPECIFIC SOIL MANAGEMENT EXCLUSION	MANUSCRIPT

# Claim Reporting Options

## Allianz Global Corporate & Specialty policies

- Aviation (US and Canada)
- Corporate Liability
- Corporate Property
- Energy
- Engineering
- Environmental Impairment Liability
- Inland Marine
- Marine Property & Liability
- Ocean Cargo
- Transportation



**Email:**  
[NewLoss@agcs.allianz.com](mailto:NewLoss@agcs.allianz.com)



**In emergency, call:** 1. 800. 558. 1606  
(International calls use 314. 513. 1353)



**Fax:** 1. 888. 323. 6450  
(International Faxes use 314. 513. 1345)



**Mail:**  
Allianz Global Corporate & Specialty  
Attn: FNOL Claims Unit  
One Progress Point Parkway, 2nd Floor  
O'Fallon, MO 63368

## Fireman's Fund policies

- Auto
- Entertainment
- Farm & Ranch
- Financial Lines
- Liability
- Property /HPR
- Small Business
- Workers Compensation



**Web reporting:**  
[www.agcs.allianz.com/usclaims](http://www.agcs.allianz.com/usclaims)



**Email:**  
[CIFNOL@ffic.com](mailto:CIFNOL@ffic.com)



**In emergency, call:**  
1. 888. 347. 3428



**Fax:**  
1. 800. 511. 3720



**Mail:**  
Allianz Global Corporate & Specialty  
Attn: FFIC FNOL Claims Unit  
One Progress Point Parkway, 2nd Floor  
O'Fallon, MO 63368

**Policy Number U5L000150180**

**Policyholder Information  
Environmental Emergency Response and  
Claim Investigation Services**

**(RETAIN FOR YOUR RECORDS)**

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Please read the information below, the Coverage Form and all attached endorsements in their entirety. If you have any questions, please contact your broker.

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**FOR EMERGENCY RESPONSE TO ENVIRONMENTAL INCIDENTS**

As part of our commitment to customer service Allianz Global Corporate & Specialty (Allianz) has named HETI as an approved provider of environmental emergency response and claim investigation services to our insureds.

HETI is a full-service environmental company founded in 1986. Their staff of environmental engineers, industrial hygienists, geologists, hydrogeologists and remedial experts has developed specific expertise in environmental incidents.

As an Allianz insured, you can call on **HETI** twenty-four hours a day, seven days a week for emergency response services for environmental incidents.

HETI's 24/7, toll-free, emergency response hotline number is:

**(1-800-347-HETI)**

HETI can also respond to your questions about regulatory reporting issues/requirements, spill containment and remediation techniques. HETI will contact you directly with additional information.

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**ALWAYS REPORT THE INCIDENT TO US AND YOUR AGENT OR BROKER**

In the event of any incident that may be covered under this policy, whether or not the HETI has been contacted, the incident should be reported to us by phone or email as soon as practicable by phone or email.

Phone:	1-800-557-1606
Email :	NewLoss@agcs.allianz.com

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**REFER TO THE CLAIM AND NOTICE REQUIREMENTS WITHIN THE CONDITIONS OF YOUR POLICY WITH RESPECT TO ANY POLLUTION CONDITION THAT MAY RESULT IN A CLAIM.**

## ENVIRONMENT PROTECT PREMISES

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is or is not covered. Words and phrases that appear in **bold** type have special meaning. Refer to the section titled – **DEFINITIONS**. All of the coverages contain claims-made and reported requirements. This policy provides defense within the limits of coverage.

In consideration of the payment of premium, in reliance upon the statements of the Declarations made a part hereof, subject to all of the terms of this policy including the applicable limits of liability, the Company agrees with the **named insured** as follows:

Only those coverage sections indicated on the Declarations are applicable.

### Section 1 – Insuring Agreements

#### A. Own Site Clean-up Costs

The Company will pay on behalf of the **insured**, **clean-up costs** resulting from a **pollution condition** on or under the **insured's own site** provided:

1. The discovery of the **pollution condition** is first made during the **period of insurance** and reported to the Company as soon as possible during the **period of insurance**; or
2. The **insured** is legally obligated to pay as a result of a **claim** for **clean-up costs** resulting from a **pollution condition**, and such **claim** is first made against the **insured** and reported to the Company during the **period of insurance**, or any **extended reporting period**, if applicable.

#### B. Off Site Clean-up Costs

The Company will pay on behalf of the **insured**, **clean-up costs** resulting from a **pollution condition** migrating from or through and beyond the boundaries of the **insured's own site** provided the **insured** is legally obligated to pay as a result of a **claim** for **clean-up costs** resulting from a **pollution condition**, and such **claim** is first made against the **insured** and reported to the Company during the **period of insurance**, or any **extended reporting period**, if applicable.

#### C. Third Party Claims for Bodily Injury or Property Damage

The Company will pay on behalf of the **insured**, **loss** that the **insured** becomes legally obligated to pay as a result of a **claim** for **bodily injury** or **property damage** resulting from a **pollution condition** on, under or migrating from or through and beyond the boundaries of the **insured's own site**, provided such **claim** is first made against the **insured** and reported to the Company during the **period of insurance**, or any **extended reporting period**, if applicable.

#### D. Emergency Response Costs

The Company will pay on behalf of the **insured**, **emergency response costs** incurred by or on behalf of the **insured** in response to a **pollution condition** on, under or migrating from or through and beyond the boundaries of an **Insured's own site** or arising from **transportation** or resulting from a **covered operation** provided the **emergency response costs** be incurred within ninety six (96) hours of the commencement of such a **pollution condition**, and reported to the Company within ten (10) days of the commencement of such a **pollution condition** and the corresponding coverage was purchased as stated in the Declarations.

#### E. Transportation

The Company will pay on behalf of the **insured**, **loss** that the **insured** becomes legally obligated to pay as a result of a **claim** for **bodily injury**, **property damage**, or **clean-up costs** resulting from a **pollution condition** caused by **transportation**, provided such **claim** is first made against the **insured** and reported to the Company during the **period of insurance**, or any **extended reporting period**, if applicable.

#### F. Non-Owned Locations

The Company will pay on behalf of the **insured**, **loss** that the **insured** becomes legally obligated to pay as a result of a **claim** for **bodily injury**, **property damage**, or **clean-up costs** resulting from a **pollution condition** on, under or migrating from **non-owned locations**, provided such **claim** is first made against the **insured** and reported to the Company during the **period of insurance**, or any **extended reporting period**, if applicable.

#### G. Covered Operations

The Company will pay on behalf of the **insured**, **loss** that the **insured** becomes legally obligated to pay as a result of a **claim** for **bodily injury**, **property damage**, or **clean-up costs** resulting from a **pollution condition** caused by **covered operations**, provided such **claim** is first made against the **insured** and reported to the Company during the **period of insurance**, or any **extended reporting period**, if applicable.

#### H. Business Interruption

The Company will pay the **insured's business interruption expense** and **extra expense** during the **interruption period**, caused directly by a **pollution condition** on or under the **insured's own site**, provided:

1. Such **pollution condition** results in **clean-up costs** covered under this Policy; and
2. The discovery of the **pollution condition** is first made during the **period of insurance** and reported to the Company during the **period of insurance**.

### Section 2 – Defense

#### A. Defense

The Company has the right and the duty to defend the **insured** against a **claim** to which this insurance applies. The Company does not have the duty to defend the **insured** against any **claim** to which this insurance does not apply. The Company will not be obligated to defend the **insured** once the applicable Limit of Liability has been exhausted as provided in Section 3 of this Policy.

Upon the **insured's** satisfaction of any applicable deductible amount, defense costs, charges and expenses will be paid by the Company and such payments will be included as **loss** and reduce the available limits of liability. With respect to any such **claim** being defended by the Company, the Company will pay all reasonable expenses incurred by the **insured** at the Company's request to assist in the investigation or defense of the **claim**, including actual loss of earnings up to \$500 a day because of time away from work subject to an aggregate limit of \$10,000 for such expenses.

## **B. Consent to Settle**

The Company will not settle any **claim** without the consent of the **insured** against whom the **claim** is made. However, if the **insured** refuses to consent to any settlement for **loss** above the amount of the deductible recommended by the Company, the Company's duty to defend the **insured** will then cease and the Company's liability for **loss** will not exceed the amount for which the **claim** could have been settled, less the deductible or the outstanding balance of the deductible.

If the **insured** and the Company jointly agree to use mediation as a means to resolve a **claim** made against the **insured**, and if such **claim** is resolved as a direct result of the mediation, the **insured's** deductible obligation will be reduced by 50%, up to a maximum of \$50,000. The Company will reimburse the **insured** for any such reimbursable deductible payment made prior to the mediation as soon as practicable upon reaching a final settlement.

## **C. Independent Counsel**

In the event the **insured** is entitled by law to select independent counsel at the Company's expense, the attorney fees and all other litigation expenses the Company must pay to that counsel are limited to the rates the Company would pay to counsel the Company would have retained in the defense of similar claims in the community where the **claim** arose or is being defended. Such independent counsel must also meet minimum qualifications with respect to competency and experience in defending claims similar to the one pending against the **insured**, standards which the Company deem appropriate.

# **Section 3 – Limits of Liability and Deductible**

Regardless of the number of **insureds**, **claims**, claimants, any **pollution condition**, or **emergency response costs**, the following limits of liability apply:

## **A. Policy Aggregate Limit**

The policy aggregate limit as stated in the Declarations is the most the Company will pay for all **loss** under Insuring Agreements A through H, covered under this Policy.

## B. Coverage Limit

Subject to the policy aggregate limit:

1. The Company's total liability for all **loss** under each Coverage in Insuring Agreements A through G, will not exceed the Coverage Section Aggregate Limit stated in the Declarations applicable to that particular coverage section; and
2. The Company's total liability for all **business interruption expense** and **extra expense** covered under Insuring Agreement H, will not exceed the Coverage Section Aggregate Limit stated in the Declarations.

## C. Each Incident Limit

Subject to the policy aggregate limit, the most the Company will pay for all **loss** arising out of the same, related or continuous **pollution condition(s)** is the Each Incident Limit of coverage applicable to such coverage stated in the Declarations.

## D. Multiple Coverages

If the same, related or continuous **pollution condition(s)** result in coverage under more than one coverage section, the most the Company will pay for all **loss** arising from such **pollution condition(s)** will not exceed the highest Each Incident Limit of coverage as stated in the Declarations among all the coverage sections.

## E. Multiple Policies

If a **claim** for **loss** is reported to the Company during the **period of insurance**, then all **claims** that result from the same continuous or related **pollution condition(s)** reported to us during subsequent policies issued by the Company providing coverage substantially the same as that provided by the applicable coverage part of this Policy, will be deemed to have been made during this **period of insurance** and all **claims** arising from all such **loss** will be deemed to have arisen from one **pollution condition(s)** and will be subject to the Each Incident Limit applicable to this Policy.

## F. Deductible

1. With respect to Coverage A through G and subject to the policy aggregate limit and coverage section aggregate limit, the Company will pay all **loss** in excess of the deductible amount stated in the Declarations for the applicable coverage, up to but not exceeding the applicable Each Incident Limit of coverage. In the event that more than one deductible amount can apply to the same **pollution condition(s)** and results in coverage under more than one coverage section, only the highest deductible amount will be applied.

The Company may advance payment of part or all of the deductible and, upon the Company's request, the **insured** will promptly reimburse the Company.

2. With respect to Coverage H and subject to the policy aggregate limit, coverage section aggregate limit and Each Incident Limit stated in the Declarations, the



Company will pay all **business interruption expense** and **extra expense** in excess of the Each Incident Deductible (days) as stated in the Declarations.

#### Section 4 – Definitions

**A. Bodily injury** means:

1. Physical injury, sickness, disease, or building-related illness sustained by any person, including death resulting therefrom, and any accompanying medical or environmental monitoring; or
2. Mental anguish, shock or emotional distress; or
3. Medical monitoring ordered by a court of competent jurisdiction.

**B. Business interruption expense** means:

1. Net profit loss, including **rental value**, before taxes that the **insured** would have earned or incurred during the **interruption period**; and
2. Continuing normal operating expenses incurred by the **insured** during the **interruption period**, including payroll expense for the **insured's** employees, except employees under contract, officers, executives and department managers,

due to the reasonable and necessary interruption of the **insured's** operations at the **insured's own site** during the **interruption period**.

If the **insured** would have incurred a net profit loss under paragraph 1 above, such net profit loss will reduce the operating expenses recoverable under paragraph 2 above. If the **insured** can reduce the **business interruption expense** by resuming any portion of standard business operation or by making use of any portion of **insured's own sites**, the Company will reduce **business interruption expense** accordingly.

**C. Claim** means a written demand seeking a remedy and alleging liability or responsibility on the part of the **insured**.

**D. Clean-up costs** means reasonable and necessary expenses, including legal expenses incurred with the Company's written consent, which consent shall not be unreasonably withheld or delayed, for the investigation, removal, treatment, containment, neutralization, abatement, monitoring or disposal of soil, surface water, groundwater or other contamination:

1. To the extent required by **environmental laws**;
2. In absence of any applicable **environmental laws**, to the extent recommended in writing by an **environmental professional**; or
3. That have been actually incurred by the government or any political subdivision of the United States of America or any state thereof or Canada or any province thereof, or by third parties.

**Clean-up costs** also include **restoration costs**.

- E. Covered operation** means those activities performed for a third party for a fee by or on behalf of the **insured** at a job site. A job site shall not include the real property owned, leased, operated or managed by the **Insured** or a **non-owned location**.

**Covered operation** does not include **transportation**.

- F. Defense costs** means reasonable and necessary legal fees, costs and expenses incurred in the investigation, defense, adjustment, settlement or appeal of any **claim** or legal proceeding to which this Policy applies.
- G. Emergency response costs** means reasonable and necessary expenses, including legal expenses, incurred in response to an imminent threat to human health or the environment and incurred within ninety six (96) hours of the commencement of the **pollution condition**, in order to investigate, remove, treat, contain, neutralize or abate soil, surface water, groundwater or other contamination.
- H. Environmental law** means any federal, state, provincial or local laws, including but not limited to, statutes, rules, regulations, ordinances, guidance documents, voluntary clean-up programs, and governmental, judicial or administrative orders and directives that are applicable to a **pollution condition**.
- I. Environmental professional** means an individual or entity approved by the Company in writing that is duly licensed and certified to provide environmental services by a state board or professional association. The Company will consult with the **insured** in the selection of the **environmental professional**.
- J. Extended reporting period** means the automatic additional period of time or the optional additional period of time, whichever is applicable, in which to report **claims** following termination of coverage.
- K. Extra expense** means necessary expenses incurred by the **insured** during the **interruption period**:
1. that would not have been incurred if there had not been an interruption of business; and
  2. that avoids or minimizes an interruption of business;
- but only to the extent such **extra expenses** reduce the **business interruption expense** otherwise covered under this Policy.
- Extra expenses** will be reduced by any salvage value of property obtained for temporary use during the **interruption period**.
- L. Insured** means the **named insured**, and any past or present director, officer, partner, member, manager, or employee, including any temporary or leased employee, while acting within the scope of his or her duties as such.
- M. Insured contract** means any contract or agreement scheduled on the Policy by endorsement. However, with respect to **Section 1 – Insuring Agreements, G. Covered Operations**, **insured contract** means any contract or agreement relating to **covered operations** under which the **insured** assumes the tort liability of another party

to pay for **bodily injury, property damage, or clean-up costs** to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

**N. Insured's own site** means each of the locations owned, leased, managed or operated by the **insured**, stated in the Declarations, or specifically scheduled on the Policy by endorsement.

**O. Interruption period** means the period of time that begins with the interruption of the **insured's** operations due to a **pollution condition** at the **insured's own site** and ends on the earliest of:

1. When the **insured's own site** is reasonably restored to operations;
2. When the **insured's own site** should have been restored to operations with reasonable speed and quality; or
3. When business activities resume at a new permanent location.

**Interruption period** does not include any time caused by the interference by employees or other persons with restoring the property, or with the resumption or continuation of operations, or any time caused by the delay in any action taken by a governmental authority necessary to allow the resumption of business operations.

**P. Insured's products** means goods, products, or pieces of equipment, including component parts thereof and including other products in which such goods, products or pieces of equipment are incorporated, which are manufactured, sold, furnished, or supplied by the **insured**, any subsidiary of the **insured**, any entity which wholly or partly owns, operates or manages the **insured** or any subsidiary of such entity, or any person under license from the **insured**. **Insured's products** does not include waste materials unless such waste materials are sold, furnished or supplied to a third party for beneficial reuse pursuant to applicable **environmental law**.

**Q. Loss** means:

1. Monetary judgment, award or settlement of compensatory damages for **bodily injury** or **property damage**;
2. Where allowable by law, punitive, exemplary or multiplied damages arising from **bodily injury** or **property damage**;
3. Civil fines, penalties and assessments arising from **bodily injury** or **property damage**;
4. **Clean-up costs**;
5. **Defense costs**;
6. **Emergency response costs**; and
7. **Business interruption expense** and **extra expense**.

**R. Microbial matter** means mold, mildew and fungi, whether or not such **microbial matter** is living.

**S. Named insured** means:

1. The entity listed in Item 1 of the Declarations page of this Policy; and

2. Any and all corporations, partnerships, companies or other entities as have existed at any time, or as now or may hereafter exist during the **period of insurance** and in which the first **named insured** did or does have more than 50% ownership interest or a controlling plurality ownership interest but, with respect to such corporations, partnerships, companies or other entities, solely with respect to liability arising out of the ownership, operation, maintenance or use of an **insured's own site(s)**.

The first **named insured** listed in Item 1 of the Declarations will act on behalf of all other **insureds** for the payment or return of premium, payment of any deductible, receipt and acceptance of any endorsement issued as part of this Policy, and giving and receiving notice of cancellation or nonrenewal.

**T. Natural resource damage** means the physical injury to or destruction of, as well as the assessment of such injury or destruction, including the resulting loss of value of land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson-Stevens Conservation and Management Act (16 U.S.C. 1801 et seq.)), any state, local or provincial government, any foreign government, any Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe.

**U. Non-owned location** means:

1. A property that is not owned, leased, managed or operated by the **insured** and is scheduled on the Policy as a **non-owned location** by endorsement; or
2. Transfer, storage, treatment or disposal facilities which are used by the **insured**, but are not owned or operated by the **insured**, provided that:
  - a. The waste materials are generated from the **insured's own site, transportation, or covered operations** by the applicable coverage part of this Policy and such coverage is purchased as stated on the Declarations;
  - b. The transfer, storage, treatment or disposal facility is properly licensed and permitted to accept and dispose of such waste and has not filed for bankruptcy as of the date of the transfer, storage, treatment or disposal of such waste; and
  - c. The transfer, storage or disposal facility is not listed or proposed to be listed on the Federal National Priorities List, or any equivalent state or local list as of the earlier of:
    - i. The inception date of this Policy; or
    - ii. The inception date of the first Environmental Allianz USA Liability policy issued by the Company to the **insured** of which this is a continuous and uninterrupted renewal.

**V. Offshore installation** means:

1. Any installation in the sea or tidal waters which is intended for underwater exploitation of mineral resources or exploration with a view to such exploitation;
2. Any installation in the sea or tidal waters which is intended for storage or recovery of gas;

3. Any pipe or system of pipes in or under the sea or tidal waters;
4. Any wind energy installation in the sea or tidal waters; or
5. Any installation in the sea or tidal waters which is intended to provide accommodation for persons who work on, at, or from the locations specified above.

**W. Offshore operation** means the ownership or operation of any **offshore installation**.

**X. Period of insurance** means the period identified in the Declarations.

**Y. Pollutant** means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapor, odors, soot, fumes, acids, alkalis, toxic chemicals, hazardous substances, **microbial matter**, Legionella pneumophila, methamphetamines, electromagnetic fields, low level radioactive waste, medical waste including infectious and pathological waste and waste materials, at levels in excess of those naturally occurring.

**Z. Pollution condition** means the discharge, dispersal, release or escape, emission, seepage, or illicit abandonment by a third party without the **insured's** consent, of any **pollutant** into or upon land, or any structure on land, the atmosphere or any watercourse or body of water, including groundwater.

**Pollution condition** also means the presence of **microbial matter** within a structure.

**AA. Possible claim** means a **pollution condition** that first commenced during the **period of insurance** that the **insured** reasonably expects to result in a **claim**.

**BB. Property damage** means:

1. Physical injury to or destruction of tangible property of parties other than the **insured**, including the resulting loss of use and except with respect to tangible property located on an **insured's own site**, diminished value of that property;
2. Loss of use, but not diminution of value, of tangible property of parties other than the **insured**, that has not been physically injured or destroyed; or
3. **Natural resource damage**.

**Property damage** does not include **clean-up costs**.

**CC. Rental Value** means the:

1. Total anticipated rental income from tenant occupancy of the **insured's own site** as furnished and equipped by the **insured**;
2. Amount of charges that are the legal obligation of the tenant(s) pursuant to a lease and that would otherwise be the **insured's** obligations; and

3. Fair rental value of any portion of the **insured's own site** that is occupied by the **insured** during the **restoration period**, less any rental income the **insured** could earn:

- a. By complete or partial rental of the **insured's own site**; or
- b. By making use of other property on the **insured's own site** or elsewhere.

**DD. Responsible insured** means:

1. the manager or supervisor of the **named insured** responsible for environmental affairs, control or compliance (a) at the **insured's own site**, (b) during **transportation**, or (c) during **covered operations**;
2. the manager of the **insured's own site**; or
3. any officer, director, partner, or member of the **named insured**.

**EE. Restoration costs** means reasonable and necessary costs incurred by the **insured** to repair, replace or restore real or personal property to substantially the same condition it was in prior to being damaged during work performed in the course of **clean-up costs**.

**Restoration costs** will not include any costs associated with a betterment or improvement to the damaged property, except to the extent such betterments include the use of materials which are environmentally preferable to those materials which comprised the damaged property, at a reasonable cost. Such environmentally preferable material must be certified by an applicable independent body, or, in the absence of such certification, based on the sole discretion of the Company.

**FF. Restoration period** means the length of time as would be required with the exercise of due diligence and dispatch to restore the **insured's own site** to a condition that allows the resumption of normal business operations, commencing with the date operation are interrupted by a **pollution condition** and not limited by the date of expiration of the **period of insurance**. The **restoration period** does not include any time caused by the interference by an **insured** with restoring the property, or with the resumption or continuation of operations.

**GG. Transportation** means the movement of goods, product, merchandise, supplies or waste in a conveyance by the **insured** or by a third party carrier properly licensed to conduct such movement, from the point of origin until delivery to the final destination. **Transportation** includes the loading and unloading onto or from a conveyance, provided that the loading and unloading is performed by or on behalf of the **insured**.

**HH. Underground storage tank** means any tank, including any piping connected to the tank, located on or under an **insured's own site** that has at least ten percent (10%) of its combined volume underground. **Underground storage tank** does not include:

1. Septic tanks, sump pumps or oil/ water separators;
2. A tank that is enclosed within a basement, cellar, shaft or tunnel, if the tank is upon or above the surface of the floor; or



3. Storm-water or wastewater collection systems.

## Section 5.1. – Exclusions

This Policy does not apply to:

### A. Asbestos and lead-based paint

**Loss** arising from asbestos or any asbestos-containing materials or lead-based paint installed or applied in, on or to any building or other structure. However, this Exclusion does not apply to:

1. **Claims** for **bodily injury** or **property damage**, or
2. **Clean-up costs** for the remediation of soil, surface water, or groundwater, or **clean-up costs** that arise out of the inadvertent disturbance of asbestos or asbestos containing materials or lead-based paint.

In no event will this Policy pay **clean-up costs** to remove or otherwise abate asbestos or asbestos containing materials or lead-based paint that were not inadvertently disturbed.

### B. Contractual liability

**Loss** arising from the **insured's** assumption of liability in any contract, or agreement. This Exclusion does not apply to liability that the **insured** would have had in the absence of the contract or agreement, or the contract or agreement is an **insured contract**.

### C. Fines, penalties, or assessments

**Loss** arising from any criminal fines, criminal penalties or criminal assessments.

### D. Employer liability

**Loss** arising from **bodily injury** to:

1. An employee of an **insured** arising out of and in the course of employment by the **insured** or performing duties related to the conduct of the **insured's** business; or
2. Any person whose right to assert a **claim** against the **insured** arises by reason of any employment, blood, marital or other relationship with the employee.

This Exclusion applies whether the **insured** may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

### E. Identified underground storage tanks

**Loss** arising from any **underground storage tank** located at the **insured's own site**, and whose existence is known by a **responsible insured**, as of the inception date on this Policy.

This Exclusion does not apply to any **underground storage tank** which:

1. Is scheduled on this Policy by an endorsement; or
2. Was removed prior to the inception date on this Policy.

#### **F. Insured vs insured**

Any **claim** by or on behalf of any **insured** against any other **insured**. However, this exclusion shall not apply to:

1. **Claims** initiated by third parties including cross-claims, counterclaims, or claims for contribution; or
2. **Claims** that arise out of indemnification provided by one **named insured** to another **named insured** in an **insured contract**.

#### **G. Intentional noncompliance**

**Loss** arising from an intentional or illegal act or omission of any **responsible insured**.

This Exclusion does not apply to noncompliance based upon:

1. The **insured's** good faith reliance upon the written advice of qualified outside counsel received in advance of such noncompliance; or
2. The **insured's** reasonable response to mitigate a **pollution condition** or **loss**, provided that such circumstances are reported in writing to the Company within three (3) days of commencement.

#### **H. Internal expenses**

Costs, charges or expenses incurred by the **insured** for goods supplied or services performed by the staff or salaried employees of the **insured**, or its parent, subsidiary or affiliate, unless such costs, charges or expenses are incurred with the prior written approval of the Company, in its sole discretion.

This Exclusion does not apply to internal expenses incurred:

1. in response to **emergency response costs**; or
2. pursuant to **environmental laws** that require immediate remediation of a **pollution condition**.

#### **I. Material change in use**

**Loss** arising from change in the material use of the **insured's own site** during the **period of insurance** and which materially increases a risk covered under this Policy.

#### **J. Nuclear fuel, assemblies and components**

**Loss** arising from:



1. Ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
2. The radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

#### K. Offshore

**Loss** arising from **offshore operations**.

#### L. Prior knowledge/ non-disclosure

**Loss** arising from a **pollution condition** existing prior to the inception date and known by a **responsible insured** and not disclosed in the application process, including supporting materials, for this Policy or any previous policy for which this is a renewal thereof.

#### M. Products

Any **claim** or **loss** arising from the **insured's products**, including any container, any failure to warn, or any reliance upon a representation or warranty made at any time, after possession of such **insured's products** have been relinquished to others by the **insured** or others trading or operating under its name.

This Exclusion does not apply to **loss** arising from **transportation** or while such **products** are being stored or transported by others on behalf of the **named Insured** as part of a **covered operation**.

#### N. Property damage to conveyances

**Loss** resulting in **property damage** to any conveyance used by or on behalf of the **insured** during **transportation**.

This Exclusion does not apply to **loss** or **claims** arising from the **insured's** negligence.

#### O. War

**Loss** arising out of any consequence, whether direct or indirect, of war, invasion, act of foreign enemy, hostilities, whether war be declared or not, civil war, rebellion, revolution, insurrection or military or usurped power, strike, riot or civil commotion.

#### P. Workers Compensation

Any **claim** or **loss** based upon or arising out of any obligation for which an **insured** or any party may be held liable under any unemployment, Workers' Compensation, disability benefits, or other similar laws.

### Section 5.2. – Exclusions

With respect to **Section 1 – Insuring Agreements, G. Covered Operations**, this Policy does not apply to:

## A. Property Damage

**Claims** or **loss** arising for **property damage** to the **insured's products** or for **property damage** to that particular part of real property on which the **insured**, or any persons or entities acting on the **insured's** behalf, are performing **covered operations**, including any **property damage** caused by materials, parts or equipment furnished in connection with such **covered operations**.

## B. Professional Services or Advice

**Claims** or **loss** arising from the performance of or failure to perform professional services or providing or failing to provide professional advice. This exclusion does not apply to improper or inadequate supervision of any entity for which the **insured** is legally liable when performing **covered operations** at a job site.

## Section 6 – Conditions

### A. Action against company

No action will be brought against the Company unless, as a condition precedent thereto:

1. The **insured** has fully complied with all of the terms of this Policy; and
2. The amount of the **insured's** obligation to pay has 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 will thereafter be entitled to recover under this Policy to the extent of the insurance afforded by this Policy. No person or organization will 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 its legal representative.

### B. Assignment

This Policy and any rights contained within it may not be assigned without the Company's prior written consent. Such consent will not be unreasonably withheld or delayed.

### C. Bankruptcy

Bankruptcy or insolvency of the **insured** or of the **insured's** estate will not relieve the Company of its obligations under this Policy.

### D. Cancellation

This Policy may be cancelled by the **named insured** by mailing to the Company written notice stating when thereafter the cancellation will be effective.

The Policy may be cancelled by the Company by mailing to the **named insured** at its address set forth in the Declarations, a notice stating when not less than ninety (90)

days, or ten (10) days for nonpayment of premium thereafter such cancellation will be effective. The Company may cancel this Policy only for the reasons stated below:

1. Fraud or misrepresentation by the **insured**; or
2. The **insured's** failure to comply with the material terms, conditions or contractual obligations under this Policy, including the failure to pay any premium or Deductible when due. However the **insured** shall have the ability, within the first thirty (30) days of the ninety day notice period stated above, to cure such failure to comply with material terms, conditions, or contractual obligations. The Company has sole discretion in determining whether the **insured** has cured any such failure. However, in the event of failure to pay any additional premium due for the addition of an **insured's own site** during the **period of insurance**, cancellation shall only apply to coverage provided for that particular **insured's own site** for which additional premium is due but not paid.

If the **named insured** cancels, earned premium will be computed in accordance with the customary short rate table and procedure. If the Company cancels, earned premium will be computed pro rata.

Premium adjustment will be either at the time cancellation is effected or as soon as practicable after cancellation becomes effective. Payment or tender of unearned premium is not a condition of cancellation.

#### **E. Changes**

Notice to any agent or knowledge possessed by any agent or by any other person will 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. The terms, definitions, conditions, exclusions and limitations of this Policy will not be waived or changed, and no assignment of any interest in this Policy will bind the Company, except as provided by endorsement and attached to this Policy.

#### **F. Economic Sanctions**

Any payment under this Policy will only be made in full compliance with all United States of America economic and trade sanction laws or regulations, including but not limited to, sanctions administered and enforced by the United States Treasury Department's Office of Foreign Assets Control. Whenever coverage provided by this Policy would be in violation of any U.S. economic or trade sanctions such as, but not limited to, those sanctions administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), such coverage shall be null and void.

#### **G. Cooperation**

The **insured** will cooperate with the Company and offer all reasonable assistance in the investigation and defense of **claims** or settlement of any **claim** or the clean-up and mitigation of a **pollution condition**. The Company may require the **insured** to submit to examination under oath or attending or testifying at hearings, depositions and trials. The Company may also require written statements or the **insured's** attendance at meetings with the Company, in the course of investigation. The **insured** must assist the Company in effecting settlement and obtaining the attendance of witnesses.

## H. Inspection

The Company will be permitted but not obligated to inspect, sample or monitor on a continuing basis the **insured's own site** or operations, at any time. No such inspection will constitute an undertaking, on behalf of the **insured** or others, to determine or warrant such property or operation as compliance with any law, rule or regulation.

## I. Other insurance

If other valid and collectible insurance is available to any **insured** covering a **loss**, **claim**, or **pollution condition**, also covered by this Policy, other than a policy that is specifically written to apply in excess of this Policy, the Company's obligations are limited as follows:.

1. Except with respect to **loss** or **claims** arising in whole or in part to **microbial matter** or Legionella pneumophila, this insurance is primary, and the Company's obligations are not affected unless any of the other insurance is also primary. In such a case, the Company will share with all such other insurance by the method described in paragraph 2 and 3 below.
2. If the other insurance permits contribution by equal shares, the Company will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the **loss** remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, the Company will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.
3. With respect to **loss** arising in whole or in part to **microbial matter** or Legionella pneumophila, the insurance afforded by this Policy will apply in excess of any valid and collectable insurance and will not contribute with other insurance.

## J. Representations

By accepting this Policy, the **named insured** agrees that the statements in the Declarations, schedules and endorsements to, and Application are accurate and complete, and this Policy is issued in reliance upon the truth of such representations.

## K. Separation of insureds

Except with respect to the Limits of Liability, **Section 5**, Paragraph **F**, and any rights and duties assigned in this Policy to the **named insured**, this insurance applies as if each **insured** were the only **insured** and separately to each **insured** against whom a **claim** is made.

Any misrepresentation, act or omission that is in violation of a term, duty or condition or breach of any exclusion under this Policy by one **insured** will not by itself effect coverage for another **insured** under this Policy. However, this Condition will not apply to any entity or person who is a parent, subsidiary, affiliate, director, officer, partner,

member or employee of the **named insured** that misrepresented, concealed or breached a term or condition, or violated a duty under this Policy.

#### L. Subrogation

In the event of any payment under this Policy, the Company will be subrogated to all the **insured's** rights of recovery therefor against any person or organization and the **insured** will execute and deliver instruments and papers and do whatever else is necessary to secure such rights including but not limited to, assignment of the **insured's** rights against any person or organization who caused a **pollution condition** on account of which the Company made any payment under this Policy. The **insured** will do nothing to prejudice the Company's rights under this paragraph. Any recovery as a result of subrogation proceedings arising out of the payment of **loss** or **business interruption expense** covered under this Policy will accrue first to the **insured** to the extent of any payments in excess of the limit of coverage; then to the Company to the extent of the Company's payment under the Policy; and then to the **insured** to the extent of the Deductible. Expenses incurred in such subrogation proceedings will be apportioned among the interested parties in the recovery in the proportion that each interested party's share in the recovery bears to the total recovery. The Company expressly waives any rights of subrogation against a person or organization where the **insured** is obligated to provide such waiver in a written contract entered into prior to the date of **loss** or **claim**.

#### M. Territory

The coverage afforded pursuant to this Policy will only apply to any **pollution condition** located, and **claims** made within the United States of America, its territories or possessions or Canada.

#### N. Voluntary payments

No **insured** will voluntarily enter into any settlement, or make any payment or assume any obligation, without the Company's consent which will not be unreasonably withheld, except at the **insured's** own cost. This Condition will not apply if such payment or obligation is an **emergency response cost** or is pursuant to **environmental laws** that require immediate remediation of a **pollution condition**.

### Section 7 – Claims and Notice Requirements

- A. As a condition precedent to the Company's obligations under this Policy, the **insured** will give written notice to the Company as soon as practicable of any **pollution condition** which may result in a **claim**. Notice under all coverages will include:
1. The names and addresses of any injured persons and witnesses;
  2. All known and reasonably obtainable information regarding the time, place, cause, nature of and other circumstances of any **pollution condition**; and
  3. Any other relevant information in the **insured's** possession concerning any actual or potential pollution.

- B. If **emergency response costs** have been incurred, the **insured** will forward to the Company within ten (10) days of the first commencement of any **pollution condition** for which the **emergency response costs** have been incurred, all information stated in paragraph A above.
- C. The **insured** will give notice to the Company of all **claims** as soon as practicable during the **period of insurance**, or during the **extended reporting period**, if applicable. The **insured** will submit all information requested by the Company, including but not limited to:
  - 1. Any demands, notices, summonses, or legal papers received in connection with the **claim**;
  - 2. Authorize the Company to obtain records and other information;
  - 3. Assist the Company in the enforcement of any right against any person or organization which may be liable to the **insured**.
- D. If during the **period of insurance**, the **insured** first becomes aware of a **possible claim**, the **insured** may provide written notice to the Company during the **period of insurance**; then any **possible claim** which subsequently becomes a **claim** made against the **insured** and reported to the Company within five (5) years after the end of the **period of insurance** of this Policy or any continuous, uninterrupted renewal thereof, will be deemed to have been first made and reported during the **period of insurance** of this Policy. Such **claim** will be subject to the terms, conditions and limits of coverage under this Policy.

## Section 8 – Rights and Duties

- A. The Company will have the right but not the duty to clean up or mitigate a **pollution condition**, and to participate in decisions regarding **clean-up costs** and to assume direct control over all aspects of the clean-up, upon receiving notice as stated in this Policy. In the event the Company exercises this right, the **insured** will reimburse the Company for any portion of **loss** falling within the Deductible.
- B. The **named insured** will have the duty to mitigate a **pollution condition** to the extent required by **environmental law**, by retaining competent professionals or contractors mutually acceptable to the Company and **named insured**. The Company reserves the right to require such professionals or contractors have minimum qualifications with respect to experience with a similar **pollution condition**, clean-up or method. The **named insured** will notify the Company of actions taken pursuant to this paragraph.

## Section 9 – Extended Reporting Period

- A. The Company will provide the **insured** an automatic **extended reporting period** of ninety (90) days from the end of the **period of insurance** in which to provide written notice to the Company of **claims** first made against the **insured** during the **period of insurance**, provided the **insured** has cancelled or not renewed this Policy or purchased



any other insurance to replace this insurance. Furthermore, the **insured** has not purchased the optional **extended reporting period** available under paragraph B below.

A **claim** first made against the **insured** and reported to the Company within the automatic **extended reporting period** will be deemed to have been made and reported on the last day of the **period of insurance**, provided that the **claim** arises from a **pollution condition** that commenced before the end of the **period of insurance**.

The automatic **extended reporting period** will not reinstate or increase any of the limits of liability afforded under this Policy.

- B. The **insured** will be entitled to purchase an optional **extended reporting period** for four (4) years, except in the event the Policy is cancelled for fraud or nonpayment of premium, provided:
1. The **insured** makes a written request for such **extended reporting period**, within thirty (30) days of termination of coverage;
  2. The **insured** pays the additional premium for such **extended reporting period**, at a rate not to exceed 200% of the premium stated in the Declarations, when due.

The Company will issue an endorsement providing this optional **extended reporting period**.

The optional **extended reporting period** will not reinstate or increase any of the limits of liability afforded under this Policy.

Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

## **POLICYHOLDER NOTICE – OFAC**

### **U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC") ADVISORY NOTICE TO POLICYHOLDERS**

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous:

- o Foreign agents;
- o Front organizations;
- o Terrorists;
- o Terrorist organizations; and
- o Narcotics traffickers;

as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's web site – <http://www.treas.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.



## **CERTIFIED ACTS OF TERRORISM (TRIA) COVERAGE ENDORSEMENT**

This Endorsement modifies insurance provided under the following:

### **ENVIRONMENT PROTECT PREMISES**

This policy is amended as follows:

1. The following exclusion is added:

#### **TERRORISM**

This insurance does not apply to "any injury or damage" arising, directly or indirectly, out of "terrorism"; however, this exclusion does not apply to a "certified act of terrorism".

2. The following definitions are added:

- a. For the purposes of this endorsement, "any injury or damage" means any injury or damage covered under this policy or any underlying insurance to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "injury", "clean-up costs" or "environmental damage" as may be defined in any applicable Coverage Part.
- b. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act as amended. The Act sets forth the following criteria for a "certified act of terrorism":

(1) The act resulted in aggregate losses in excess of \$5 million; and

(2) The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

3. "Terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, that is not a "certified act of terrorism". Multiple incidents of "terrorism" which occur within a seventy-two hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.

Allianz Underwriters Insurance Company

4. If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

All other terms and conditions remain unchanged.

Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 20187

**Endorsement No. 2**

## CRISIS MANAGEMENT RESPONSE COST AND CRISIS MANAGEMENT LOSS COVERAGE EXTENSION

This endorsement modifies insurance provided under the following:

### ENVIRONMENT PROTECT PREMISES

This policy is amended as follows:

The following is added to **Section 1 – Insuring Agreements**:

### I. Crisis Management Response Costs and Crisis Management Loss Coverage Extension

#### SCHEDULE A – Crisis Management Limits of Insurance

Coverage A – Crisis Management Response Costs Limit of Insurance	\$ 250,000 Each Crisis Management Event \$ 500,000 Aggregate
Coverage B – Crisis Management Loss Limit of Insurance	\$ 50,000 Each Crisis Management Event \$ 50,000 Aggregate

#### SCHEDULE B – Approved Crisis Management Firms

Refer to AGRL-CU 1601 Schedule of Approved Crisis Management Firms	Or contact: Allianz Global Risk Insurance Company Liability Claims Department 225 West Washington Street, Suite 1800 Chicago IL 60605 Phone number: 1.800.211.6647 Or fill out the on-line claims reporting form available at: <a href="http://www.agcs.allianz.com/global-offices/united-states/">www.agcs.allianz.com/global-offices/united-states/</a>
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#### SCHEDULE C – Additional Key Executives

None unless listed below:

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### 1. INSURING AGREEMENT – CRISIS MANAGEMENT RESPONSE COSTS AND CRISIS MANAGEMENT LOSS

**a. Crisis Management Response Costs**

The Company will pay **crisis management response costs** on behalf of the **named insured**, regardless of fault, arising from a **crisis management event** which first commences during the **period of insurance**, up to the amount of the **crisis management response costs limit of insurance**.

**b. Crisis Management Loss**

The Company will pay **crisis management loss** on behalf of the **named insured** arising from a **crisis management event** which first commences during the **period of insurance**, up to the amount of the **crisis management loss limit of insurance**.

- c. A **crisis management event** will be deemed to commence at the time when a **key executive** first becomes aware of a **crisis management event** and will end when the Company determines that a crisis no longer exists or when the **crisis management response costs limit of insurance** has been exhausted, whichever comes first.
- d. There will be no retained limit or deductible applicable to **crisis management response costs** or **crisis management loss**.
- e. Any payment of **crisis management response costs** or **crisis management loss** that the Company makes under the coverage provided by this endorsement will not be an acknowledgement of coverage under any other part of this Policy, nor does it create any duty to defend any suit under any other part of this Policy.

**2. LIMITS OF INSURANCE**

- a. The **crisis management response costs limit of insurance** is the most the Company will pay for all **crisis management response costs** under this Policy, regardless of the number of **crisis management events** first commencing during the **period of insurance**. This **crisis management response costs limit of insurance** will be in addition to the applicable limits of insurance shown in the Declarations of this Policy.
- b. The **crisis management loss limit of insurance** is the most the Company will pay for all **crisis management loss** under this Policy, regardless of the number of **crisis management events** first commencing during the **period of insurance**. This **crisis management loss limits of insurance** will be in addition to the applicable limits of insurance shown in the Declarations of this Policy.

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- c. The Company will have no obligation to pay **crisis management response costs** when it determines that a **crisis management event** has ended or when the **crisis management response costs limit of insurance** has been exhausted, whichever occurs first.
- d. The **crisis management limits of insurance** in Schedule A of this endorsement apply separately to each consecutive annual period and to any remaining period of less than twelve (12) months, beginning with the inception date shown in the Declarations. If the **period of insurance** is extended after issuance of an additional period of less than 12 months the additional period will be deemed to part of the last preceding period for purposes of determining the crisis management limits of insurance of this endorsement.

### 3. DEFINITIONS

For the purpose of this endorsement only, **Section 4 – Definitions** is amended to include the following definitions:

- a. **Crisis management event** means an occurrence that triggers significant adverse regional or national media coverage that in the good faith opinion of a **key executive** of the **Named insured** has or may result in damages covered by this Policy.

**Crisis management event** includes man-made disasters such as explosions, major crashes, multiple deaths, burns, dismemberment, traumatic brain injury, permanent paralysis, or contamination of the environment, provided that they result from an occurrence.

- b. **Crisis management firm** means any firm approved by the Company and shown in Schedule B, Approved Crisis Management Firms, of this endorsement, which is hired by you to perform **crisis management services** in connection with a **crisis management event**.
- c. **Crisis management loss** means the following amounts incurred during a **crisis management event**:
  - 1. Amounts for the reasonable and necessary fees and expenses incurred by a **crisis management firm** in the performance of **crisis management services** for the **named insured** solely arising from a covered **crisis management event**; and
  - 2. Amounts for reasonable and necessary printing, advertising or mailing of materials, or travel by directors, officers, employees or agents of the **named insured** or a **crisis management firm** incurred at the direction of a **crisis management firm**, solely arising from a covered **crisis management event**.

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- d. **Crisis management services** means those services performed by a **crisis management firm** in assisting the **named insured** in minimizing the potential harm to the **named insured** from a covered **crisis management event** by maintaining and restoring public confidence in the **named insured**.
- e. **Crisis management response costs** mean the following reasonable and necessary expenses incurred during a **crisis management event** directly caused by a **crisis management event**, provided that such expenses have been pre-approved by the Company and are associated with damages that would be covered by this Policy:
  - 1. Medical expenses;
  - 2. Funeral expenses;
  - 3. Psychological counseling;
  - 4. Travel expenses;
  - 5. Temporary living expenses;
  - 6. Expenses to secure the scene of a **crisis management event**; and
  - 7. Any other expenses pre-approved by the Company.
- Crisis management response costs** does not include defense costs or **crisis management loss**.
- f. **Crisis management response costs sub-limits of insurance** means the Crisis Management Response Costs Limit of Insurance shown in Schedule A of this endorsement.
- g. **Crisis management loss limit of insurance** means the Crisis Management Loss Limit of Insurance shown in Schedule A of this endorsement.
- h. **Key executive** means the Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, President, General Counsel or general partner (if the **named insured** is a partnership) of the **named insured** or sole proprietor (if the **named insured** is a sole proprietorship). A **key executive** also means any other person holding a title designated by you and approved by the Company, which title is shown in Schedule C – Additional Key Executives of this endorsement.

All other terms, conditions and exclusions will remain the same

Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 3**

# **SCHEDULE OF APPROVED CRISIS MANAGEMENT FIRMS**

**THIS SCHEDULE FORMS A PART OF ENDORSEMENT AGRL-CU 2002 CRISIS MANAGEMENT RESPONSE COST AND CRISIS MANAGEMENT LOSS COVERAGE EXTENSION ENDORSEMENT ATTACHED TO THIS POLICY.**

**Approved Crisis Management Firm(s):**

**HILL & KNOWLTON STRATEGIES**  
**24 Hour North America Crisis Help Line – 1 (212) 885 0306**

<b>US LEAD **</b> Kevin Elliott, SVP 60 Green Street San Francisco, CA 94111 Direct: 415.281.7150 Mobile: 415.307.1252 Kevin.Elliott@hkstrategies.com	<b>WESTERN US</b> Larry Krutchik, SVP 6300 Wilshire Boulevard, 10 <sup>th</sup> Floor Los Angeles, CA 90048 Direct: 310.633.9428 Mobile: 818.406.6068 Larry.Krutchik@hkstrategies.com
<b>EASTERN US</b> Nancy Fitzsimmons, SVP 466 Lexington Avenue, 4th Floor New York, New York 10017 Direct: 212.885.0356 Mobile: 908.433.6161 Nancy.Fitzsimons@hkstrategies.com	<b>CENTRAL US</b> Michelle McKenna, VP 500 W. 5th Street, Suite 1000 Austin, Texas 78701 Direct: 202.427.6042 Mobile: 202.427.6042 Michelle.McKenna@hkstrategies.com
<b>CANADA LEAD **</b> Jane Shapiro, SVP 160 Bloor Street East, Suite 800 Toronto, Ontario M4W 3P7, Canada Direct: 416.413.4770 Mobile: 416.457.1429 Jane.Shapiro@hkstrategies.com	<b>CANADA</b> Sarah Andrewes, VP 160 Bloor Street East, Suite 800 Toronto, Ontario M4W 3P7, Canada Direct: 416.413.4605 Mobile: 416.209.1507 Sarah.Andrewes@hkstrategies.com
<b>CANADA</b> Jason MacDonald, VP 55 Metcalfe Street, Suite 1100 Ottawa, Ontario K1P 6L5, Canada Direct: 613.786.9943 Mobile: 613.786.9943 Jason.MacDonald@hkstrategies.com	<b>CANADA</b> Joy Jennisson, Chief Client Officer (CCO) 1350-355 Burrard Street Vancouver, British Columbia V6C 2G8, Canada Direct: 604.692.4224 Mobile: 604.787.4144 Joy.Jennisson@hkstrategies.com

**\*\* Kevin R. Elliott and Jane Shapiro should be the first contact in the United States and Canada, respectively.**

**Approved Crisis Management Firm(s)** shall also include a firm other than one shown above, provided you notify us of your intent to hire such firm and we approve. Approval shall be deemed granted if we do not notify you of our disapproval within 3 business days of receiving the notice of your intent.

All other terms, conditions and exclusions will remain the same.



Allianz Underwriters Insurance Company

**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 4**

## LEGAL LIABILITY COVERAGE AGREEMENT ENDORSEMENT

This Endorsement modifies insurance provided under the following:

### ENVIRONMENT PROTECT PREMISES

This policy is amended as follows:

1. **Section 1 – Insuring Agreements** is deleted in its entirety and replaced with the following:

#### A. Own site Clean-Up Costs

The Company will pay on behalf of the **insured**, **clean-up costs** resulting from a **pollution condition** on or under the **insured's own site** if such **pollution condition** is discovered by the **insured** during the **period of insurance**, provided:

1. The discovery of the **pollution condition** is reported to the Company in writing as soon as possible after discovery by the **insured** during the **period of insurance** in accordance with **Section 7 – Claims and Notice Requirements**. Discovery of a **pollution condition** happens when a **responsible insured** becomes aware of the **pollution condition**; and
2. Where required, such **pollution condition** has been reported to the appropriate governmental agency in substantial compliance with applicable **environmental law** in effect as of the date of discovery.

#### B. Legal Liability

The Company will pay on behalf of the **insured**, **loss** that the **insured** becomes legally obligated to pay as a result of a **claim** for **bodily injury**, **property damage**, or **clean-up costs** resulting from a **pollution condition**, provided such claim is first made against the **insured** and reported to the Company in writing during the **period of insurance**, or any **extended reporting period**, if applicable.

#### C. Emergency Response Costs

The Company will pay on behalf of the **insured**, **emergency response costs** incurred by or on behalf of the **insured** in response to a **pollution condition** or an imminent and substantial threat to human health or the environment, on, under or migrating from or through an **insured's own site** or arising from **transportation** or resulting from a **covered operation** provided the **emergency response costs** be incurred within seven (7) days of the commencement of such **pollution conditions**, and reported to the Company within fourteen (14) days of the commencement of such **pollution conditions**.

#### D. Business Interruption



Allianz Underwriters Insurance Company

The Company will pay the **insured's business interruption expense** and **extra expense** during the **interruption period**, caused directly by a **pollution condition** on or under the **insured's own site**, provided:

1. Such **pollution condition** results in **clean-up costs** covered under this Policy;
  2. The Company shall pay only for that portion of the **insured's business interruption expense** and **extra expense** caused solely and directly by such **pollution condition**; and
  3. The discovery of the **pollution condition** is first made during the **period of insurance** and reported to the Company no later than thirty (30) days after commencement and during the **period of insurance**
2. **Section 3 – Limits of Liability and Deductible**, paragraph **A. Policy Aggregate Limit**, and **B. Coverage Limit** are deleted in their entirety and replaced with the following:

**A. Policy Aggregate Limit**

The policy aggregate limit as stated in the Declarations is the most the Company will pay for all **loss** under Insuring Agreements A through D, covered under this Policy.

**B. Coverage Limit**

Subject to the policy aggregate limit:

1. The Company's total liability for all **loss** under each Coverage in Insuring Agreements A through C, will not exceed the Coverage Section Aggregate Limit applicable to that particular coverage section; and
  2. The Company's total liability for all **business interruption expense** and **extra expense** covered under Insuring Agreement D will not exceed the Coverage Section Aggregate Limit applicable to that particular coverage section.
3. The following are added to **Section 5.1 – Exclusions**:

**Pollution Conditions Post-Divestiture**

Any **claim** or **loss** arising from any **pollution condition** that first commenced on or after the date the insured sold, relinquished control, or terminated lease of an **insured's own site**.

**Waste Disposal Activities**

**Loss** arising from any **waste disposal activities** which took place prior to **Waste Disposal Retroactive Date**.

4. **Section 5.1 – Exclusions, A. Asbestos and lead-based paint** is deleted in its entirety and replaced with the following:

**A. Asbestos and lead-based paint**



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**Loss or business interruption expense** arising from asbestos or any asbestos-containing materials or lead-based paint installed or applied in, on or to any building or other structure. However, this Exclusion does not apply to:

1. **Claims for bodily injury or property damage**, or
2. **Clean-up costs** for the remediation of soil, surface water, or groundwater, or **clean-up costs** that arise out of the inadvertent disturbance of asbestos or asbestos containing materials or lead-based paint.

In no event will this Policy pay **clean-up costs** to remove or otherwise abate asbestos or asbestos containing materials or lead-based paint that were not inadvertently disturbed.

5. The preamble to **Section 5.2 – Exclusions** is deleted in its entirety and replaced with the following:

With respect to **covered operations**, this Policy does not apply to:

6. **Section 5.2 – Exclusions, B. Professional Services or Advice** is deleted in its entirety.
7. The following are added to **Section 4 – Definitions**:

**Biological hazard** means human blood or bodily fluids.

**Inception date** means the first date set forth in the **period of insurance**.

**Waste Disposal Activities** means the transportation, processing, treatment or disposal, or arranging for the transportation, processing, treatment or disposal of the **named insured's** waste to a **non-owned location**. **Waste disposal activities** shall include waste generated from an **insured's own site** transported for delivery by a third-party carrier properly licensed to transport such waste to a **non-owned location**, if such **pollution conditions** arise directly from illicit abandonment of such waste on or after the **inception date** by such third-party without the **insured's** written consent.

**Waste Disposal Retroactive Date** means:           None

8. **Section 4 – Definitions**, paragraph **D. Clean-up costs**, **E. Covered operation**, **G. Emergency response costs**, **L. Insured**, **M. Insured contract**, **N. Insured's own site**, **Q. Loss**, **Y. Pollutant**, and **Z. Pollution Condition** are deleted in their entirety and replaced with the following:

**D. Clean-up costs** means reasonable and necessary expenses, including legal expenses incurred with the Company's written consent, which consent shall not be unreasonably withheld or delayed, for the investigation, removal, treatment, containment, neutralization, abatement, monitoring or disposal of soil, surface water, groundwater or other contamination:

1. To the extent required by **environmental laws**;
2. In absence of any applicable **environmental laws**, to the extent recommended in writing by an **environmental professional**;

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3. With respect to bacteria or viruses, as defined by the Center for Disease Control or local health department, in the absence of **environmental laws**, to the extent required by the Center for Disease Control or local health department;
4. With respect to a **biological hazard**, to the extent required to return the **insured's ownsite** to its original condition or as required by the local health department, or
5. That have been actually incurred by the government or any political subdivision of the United States of America or any state thereof or Canada or any province thereof, or by third parties.

**Clean-up costs** also include **restoration costs**.

**E. Covered operation** means those activities performed for a third party by or on behalf of the **named insured** at a job site.

**G. Emergency response costs** means reasonable and necessary expenses, including legal expenses, incurred in response to an imminent threat to human health or the environment and incurred within seven (7) days of the commencement of the **pollution condition**, in order to investigate, remove, treat, contain, neutralize, abate, soil, surface water, groundwater or other contamination.

**L. Insured** means:

1. the **named insured**, and any past or present director, officer, partner, member, manager, or employee, including any temporary or leased employee, while acting within the scope of his or her duties as such; and
2. any person or entity the **named insured** is required to add as an additional insured pursuant to a written contract or agreement executed prior to **loss** or a **claim** but solely with respect to such person or entity's liability arising out of:
  - a. the **named insured's** ownership, operation, maintenance or use of any **insured's own site**; or
  - b. any **pollution conditions** for which the **named insured** is alleged to be liable, other than liability arising out of such person or entity's own negligence.

**M. Insured contract** means any contract or agreement scheduled on the Policy by endorsement. However with respect to **covered operations**, **insured contract** means any contract or agreement relating to **covered operations** under which the **insured** assumes the tort liability of another party to pay for **bodily injury**, **property damage**, or **clean-up costs** to a third party or organization if such contract was executed prior to the date of **loss**. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement. However, such **insured contract** shall not include a contract or that part of any contract or agreement that indemnifies an architect, engineer or surveyor for injury or damage arising out of:

- (a) Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the **bodily injury**, **property damage**, or **clean-up costs**.

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**N. Insured's own site** means:

1. All real property owned, leased, rented or occupied by an **insured**; or
2. All divested real property for which the **named insured** has no ownership or operational interest as of the first date of the **inception date**.

**Q. Loss** means:

1. Monetary judgment, award or settlement of compensatory damages for **bodily injury** or **property damage**;
2. Where allowable by law, punitive, exemplary or multiplied damages arising from **bodily injury** or **property damage**;
3. Civil fines, penalties and assessments arising from **bodily injury** or **property damage**;
4. **Clean-up costs**;
5. **Defense costs**;
6. **Emergency response costs**; and
7. **Business interruption expense** and **extra expense**.

**Y. Pollutant** means:

1. any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapor, odors, soot, fumes, acids, alkalis, toxic chemicals, hazardous substances, **microbial matter**, Legionella pneumophila, methamphetamines, electromagnetic fields, low level radioactive waste, medical waste including infectious and pathological waste and waste materials, at levels in excess of those naturally occurring; or
2. Solely with respect to **clean-up costs**, bacteria or viruses as defined by the Center for Disease Control or local health department; or
3. Any **biological hazard**.

**Z. Pollution Condition** means the discharge, dispersal, release or escape, emission, seepage, or illicit abandonment by a third party without the **insured's** consent, of any **pollutant** into or upon land, or any structure on land, the atmosphere or any watercourse or body of water, including groundwater.

**Pollution condition** also means the presence of **microbial matter** in any structure on land and the atmosphere contained within that structure.

9. The following is added to **Section 6 – Conditions**, paragraph **D. Cancellation**:

This policy may also be cancelled for a change in operations during the **period of insurance** that materially increases a risk covered under this Policy but such cancellation shall only apply to the **insured's own site** where said change in operations occurred.

10. **Section 7 – Claims and Notice Requirements**, paragraph B. is deleted in its entirety and replaced with the following:

- B. If **emergency response costs** have been incurred, the **insured** will forward to the Company within fourteen (14) days of the first commencement of the **pollution conditions** for which the **emergency response costs** have been incurred, all information stated in paragraph A above.

All other terms, conditions, and exclusions will remain the same.

Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 5**

## **MINIMUM EARNED PREMIUM (MULTI-YEAR) & CANCELLATION ENDORSEMENT**

This Endorsement modifies insurance provided under the following:

### **ENVIRONMENT PROTECT PREMISES**

This policy is amended as follows:

1. The following minimum earned premium will apply:

Policy Inception:	Minimum Premium Earned 25%
End of Year One:	Minimum Premium Earned 100%

2. **Section 6 – Conditions, D. Cancellation** is deleted in its entirety and replaced with the following:

#### **D. Cancellation**

This Policy may be cancelled by the **named insured** by mailing to the Company written notice stating when thereafter the cancellation will be effective.

The Policy may be cancelled by the Company by mailing to the **named insured** at its address set forth in the Declarations, a notice stating when not less than ninety (90) days, or ten (10) days for nonpayment of premium thereafter such cancellation will be effective. The Company may cancel this Policy only for the reasons stated below:

1. Fraud or misrepresentation by the **insured**; or
2. The **insured's** failure to comply with the material terms, conditions or contractual obligations under this Policy, including the failure to pay any premium or Deductible when due. However the **insured** shall have the ability, within the first thirty (30) days of the ninety day notice period stated above, to cure such failure to comply with material terms, conditions, or contractual obligations. The Company has sole discretion in determining whether the **insured** has cured any such failure. However, in the event of failure to pay any additional premium due for the addition of an **insured's own site** during the **period of insurance**, cancellation shall only apply to coverage provided for that particular **insured's own site** for which additional premium is due but not paid.

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If the **named insured** cancels, earned premium will be computed in accordance with the customary short rate table and procedure after applying the minimum premium earned based on the schedule above. If the Company cancels, earned premium will be computed pro rata.

The time of surrender or the effective date of cancellation stated in the notice shall become the end of the **period of insurance**. Premium adjustment will be either at the time of cancellation is effected or as soon as practicable after cancellation becomes effective. Payment or tender of unearned premium is not a condition of cancellation.

All other terms, conditions and exclusions will remain the same.

Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 6**

## **DEFINITION OF RESPONSIBLE INSURED ENDORSEMENT**

This Endorsement modifies insurance provided under the following:

### **ENVIRONMENT PROTECT PREMISES**

This policy is amended as follows:

**Section 4 – Definitions**, paragraph **DD. Responsible Insured** is deleted in its entirety and replaced with the following:

**DD. Responsible insured** means:

1. the manager or supervisor of the **named insured** responsible for environmental affairs, control or compliance (a) at the **insured's own site**, (b) during **transportation**, or (c) during **covered operations**; or
2. any officer, director, partner, or member of the **named insured**.

All other terms, conditions, and exclusions will remain the same.

Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 7**

### **DEFENSE COSTS SEPARATE LIMIT ENDORSEMENT**

This Endorsement modifies insurance provided under the following:

#### **ENVIRONMENT PROTECT PREMISES**

This policy is amended as follows:

1. **Section 2 – Defense**, Paragraph **A. Defense**, is deleted in its entirety and replaced with the following:

##### **A. Defense**

The Company has the right and the duty to defend the **insured** against a **claim** to which this insurance applies. The Company does not have the duty to defend the **insured** against any **claim** to which this insurance does not apply. The Company will not be obligated to defend the **insured** once the applicable Limit of Liability has been exhausted as provided in Section 3 of this Policy.

In addition to the applicable limit of liability, the Company will pay on behalf of the **insured** costs, charges and expenses incurred in the defense, investigation or adjustment of **claims** covered hereunder. The total liability of the Company for such **defense costs**, charges and expenses associated with all **loss(es)** will not exceed \$250,000. Once **defense costs**, charges and expenses equal \$250,000 and upon the **insured's** satisfaction of any applicable deductible, all additional **defense costs**, charges and expenses will be paid by the Company and such payments will be included as **loss** and reduce the available limits of liability.

With respect to any such **claim** being defended by the Company, the Company will pay all reasonable expenses incurred by the **insured** at the Company's request to assist in the investigation or defense of the **claim**, including actual loss of earnings up to \$500 a day because of time off from work subject to an aggregate limit of \$10,000 for such expenses.

2. **Section 3 – Limits of Liability and Deductible**, Paragraph **A. Policy Aggregate Limit**, is deleted in its entirety and replaced with the following:

##### **A. Policy Aggregate Limit**

The policy aggregate limit as stated in the Declarations plus an additional \$250,000 for defense costs, charges, and expenses is the most the Company will pay for all **loss** under Insuring Agreements A through H, covered under this Policy.

All other terms, conditions and exclusions will remain the same.



Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 8**

## **AUTOMATIC ACQUISITION ENDORSEMENT**

This Endorsement modifies insurance provided under the following:

### **ENVIRONMENT PROTECT PREMISES**

This policy is amended as follows:

It is hereby agreed that **Section 6 – Conditions** is amended by the addition of the following:

#### **Automatic Acquisition**

It is understood and agreed that for any additional location that is purchased, leased or otherwise acquired by the **insured** during the **period of insurance** the additional premium for such location will be computed as follows:

\*Commercial Property = \$3,000 per location

\*pro-rata based on the date that the acquisition or lease is acquired

Any location purchased, leased or otherwise acquired by the **insured** during the **period of insurance** that has a use that is consistent with the **insured's** operations as of the effective date of this Policy will be covered by the Policy with respect to **pollution conditions** that commence after the closing or lease effective date, provided that:

1. The Company must receive written notice within one hundred eighty (180) days of the closing or lease effective date.
2. If the location has any **underground storage tanks**, solely with respect to coverage under this Policy for such **underground storage tanks**, the **insured** must determine that all operational **underground storage tanks** are in material compliance with all applicable **environmental laws** and regulations and obtain the most recent tank tightness testing or leak detection data conducted within sixty (60) days prior to the effective date that the **insured** acquires or leases the subjectsite.

Solely with respect to **pollution conditions** that commence prior to the closing or lease effective date at any locations purchased, leased or otherwise acquired by the **insured** during the **period of insurance**, all of the following shall apply:

1. The Company must receive written notice within on hundred eighty (180) days of the closing or lease effective date;
2. The **insured** commissions and receives a Phase I Environmental Site Assessment report on the location that is performed by a qualified environmental consultant in accordance with ASTM Standard E 1527-05 (as subsequently revised); and

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3. The **insured** receives a Phase I Environmental Site Assessment report on the location that has been conducted by a qualified environmental consultant for a third-party, provided that the assessment and related report are prepared in accordance with ASTM Standard E 1527-05 (or subsequent revisions), and that the consultant responsible for the assessment has provided the **insured** with written confirmation that the **insured**, as applicable, is entitled to rely on the conclusions of that report as if the assessment had been performed on its behalf.

If items 1 through 3 above are adhered to and the Phase I Environmental Site Assessment does not identify any Recognized Environmental Conditions, as defined by ASTM Standard E 1527-05 (as subsequently revised), the location will automatically be covered by the Policy effective as of the closing or lease effective date.

If the Phase I Environmental Site Assessment identifies any Recognized Environmental Conditions other than a Recognized Environmental Condition that is solely the presence of an operational **underground storage tank**, the **insured** must complete a Phase II Environmental Site Assessment. Thereafter, the Company will have thirty (30) days to review and approve the Phase II Environmental Site Assessment report. Said approval will not be unreasonably withheld, but the Company reserves the right to limit coverage with respect to any Recognized Environmental Conditions identified at the location. Upon such approval, the Company will provide a written endorsement to you confirming the effective date that the location is covered by the Policy, and describing the extent of the coverage being afforded with respect to the Recognized Environmental Conditions identified at the location. Upon written confirmation of receipt from the Company of such Phase II, if the Company does not issue confirmation of coverage by endorsement within sixty (60) days of receipt of such information, such location that is the subject of such Phase II will be deemed a covered location under this Policy, and if a Recognized Environmental Condition that is solely the presence of an operational **underground storage tank** is identified, it will be covered under this Policy.

All other terms, conditions and exclusions will remain the same.

Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 9**

## **FINANCIAL RESPONSIBILITY FOR STORAGE TANK SYSTEM(S) ENDORSEMENT**

This Endorsement modifies insurance provided under the following:

### **ENVIRONMENT PROTECT PREMISES**

This policy is amended as follows:

Notwithstanding anything stated to the contrary in this Policy or the Endorsements attached therein, it is hereby agreed that solely with respect to the **storage tank system(s)** scheduled in Paragraph 17. of this Endorsement and solely provided that the **claim** or **confirmed release** is one for which the **insured** is required to demonstrate financial responsibility: i) pursuant to 40 CFR 280.90 - 280.116 or by other applicable regulations promulgated by a state under an underground storage tank program approved by the United States Environmental Protection Agency in accordance with Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended; or ii) pursuant to applicable regulations promulgated by a state pertaining to aboveground storage tanks, the Policy is amended as set forth in Paragraphs 1. through 17. below; provided, however, that in the event that the same related or continuous **pollution conditions** result in **loss, clean-up costs** and/or **corrective action** which exhaust the available limits under Coverages I and/or J, at the time of exhaustion, any **claims, loss or clean-up costs** resulting from such **pollution conditions** shall then be subject to coverage under Coverages A, B and/or C, without the application of an additional deductible, if and to the extent such coverage is available under the Policy's terms and conditions, and the provisions of this Endorsement shall no longer apply to such **claims, loss or clean-up costs**. Further, to the extent applicable and pursuant to the terms and conditions of the Policy, Coverage D. Emergency Response Costs shall apply to **pollution conditions** arising from the **storage tank system(s)** scheduled in Paragraph 17.

1. Item 3. Period of Insurance on the Declarations is deleted in its entirety and replaced with the following:

ITEM 2. POLICY PERIOD: FROM **April 9, 2018** TO **April 9, 2021**  
At 12:01 A.M at the address of the First Named Insured shown above.

2. ITEM 7. PURCHASED COVERAGE SECTIONS – DEDUCTIBLES AND LIMITS OF LIABILITY of the Declarations is deleted in its entirety and replaced with the following:

ITEM 7. PURCHASED COVERAGE SECTIONS – DEDUCTIBLES AND LIMITS OF LIABILITY.

Purchased Insuring Agreement	Each Incident Deductible	Each Incident Limit	Coverage Section Aggregate Limit
I. Third Party BI / PD Due to Storage Tank Release	\$ 10,000	\$ 1,000,000	\$ 2,000,000
J. Clean-up Costs or Corrective Action Due to Storage Tank Release	\$ 10,000	\$ 1,000,000	\$ 2,000,000

3. **Section 1 – Insuring Agreements** is deleted in its entirety and replaced with the following:

**I. THIRD PARTY BODILY INJURY AND PROPERTY DAMAGE DUE TO A STORAGE TANK RELEASE**

To pay on behalf of the **insured**, **loss** that the **insured** becomes legally obligated to pay as a result of **claims** for **bodily injury** or **property damage** resulting from **pollution conditions** from a scheduled **storage tank system(s)**, provided such **claims** are first made against the **insured** and reported to the Company in writing during the **period of insurance** or during the **extended reporting period**, if applicable. The **pollution conditions** must commence on or after the Retroactive Date for the corresponding **storage tank system(s)** scheduled in Paragraph 17 of this Endorsement.

**J. CLEAN-UP COSTS OR CORRECTIVE ACTION DUE TO A STORAGE TANK RELEASE**

To pay on behalf of the **insured**, **clean-up costs** or **corrective action** that the **insured** becomes legally obligated to pay as a result of a **confirmed release** from a scheduled **storage tank system(s)**, provided such **confirmed release** is first reported to the Company in writing during the **period of insurance** or during the **extended reporting period**, if applicable.

The **pollution conditions** must commence on or after the Retroactive Date for the corresponding **storage tank system(s)** scheduled in Paragraph 17 of this Endorsement.

4. **Section 2 – Defense** is deleted in its entirety and replaced with the following:

**A. Defense**

The Company shall have the right and duty to defend any **claims** covered under Coverage I or any civil or administrative proceedings or suits which seek to impose a legal obligation upon the **insured** to undertake **clean-up costs** or **corrective action** for a **confirmed release** to which Coverage J applies. The Company's duty to defend or continue defending any such **claims**, civil or administrative proceedings or suits and to pay any **loss**, **corrective action**, **clean-up costs** or defense costs, charges and expenses, shall cease once the applicable limit of liability, as described in Section 3 - Limits of Liability and Deductible, as amended by this Endorsement has been exhausted.

The Company will present any settlement offers to the **insured**, and if the **insured** refuses to consent to any settlement within the limits of liability of this Policy recommended by the Company and acceptable to the claimant, the Company's duty to defend the **insured** shall then cease and the **insured** shall thereafter negotiate or defend such **claim** independently of the Company and the Company's liability shall not exceed the amount, less the Deductible or any outstanding Deductible balance, for which the **claim** could have been settled if such recommendation was consented to.

5. The first Paragraph of **Section 5.1 - Exclusions** is deleted in its entirety and replaced with the following:

This Policy does not apply to **claims, clean-up costs, corrective action or loss**:

6. **Section 5.1 – Exclusions**, paragraph **G. Intentional noncompliance** is deleted in its entirety and replaced with the following:

**G. INTENTIONAL NONCOMPLIANCE:**

Arising from **pollution conditions** based upon or attributable to any **Responsible Insured's** intentional, willful or deliberate noncompliance with any statute, regulation including those set forth in Title 40 of the Code of Federal Regulations, ordinance, administrative complaint, notice of violation, notice letter, executive order, or instruction of any governmental agency or body.

7. **Section 5.1 – Exclusions**, paragraphs **E. Identified underground storage tanks** is deleted in its entirety.
8. **Section 5.1 – Exclusions**, is amended by the addition of the following:

**Cost to confirm a release from a storage tank system:**

Any costs, charges or expenses incurred to investigate or certify that a **confirmed release** has taken place.

**Cost to repair, replace or upgrade a storage tank system:**

Any costs arising out of the reconstruction, repair, replacement, upgrading or rebuilding of any **storage tank system(s)** or for any other improvements, site enhancements or routine maintenance on, within or under the site at which the **storage tank system(s)** are located.

**Divested Storage Tank Systems or Sites:**

**Loss** arising from **pollution conditions** or **confirmed releases** which commence after the date that a **storage tank system(s)**, or the site at which the **storage tank system(s)** is

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located, is sold, given away, abandoned, or subleased, unless the sublease has been approved in writing by the underwriter prior to the commencement of the sublease.

**Storage tank system contents:**

- a. **Loss** arising from physical injury, including but not limited to contamination, of the contents of a **storage tank system(s)**; or
  - b. **Loss** arising out of **property damage** due to physical injury, including but not limited to contamination, of the contents of a **storage tank system(s)**; or
  - c. Any costs arising out of the removing, replacing or recycling of the contents of any **storage tank system(s)**.
9. **Section 7 – Claims and Notice Requirements** is deleted in its entirety and replaced with the following:

**Section 7 – Claims and Notice Requirements**

The **insured** shall provide the Company with notice of **confirmed release, claim** and **pollution conditions**, as follows:

1. In the event of a **confirmed release, claim** or **pollution condition**, the **insured** shall give written notice to: or other address(es) as substituted by the Company in writing.
2. The **insured** shall give written notice of **claims, a confirmed release** or **pollution conditions** as soon as possible, but in any event during the **period of insurance** or during the **extended reporting period**, if applicable. Notice under all coverages shall include, at a minimum, information sufficient to identify the **named insured**, the **storage tank system(s)**, the names of persons with knowledge of the **pollution conditions** and all known and reasonable obtainable information regarding the time, place, cause, nature of and other circumstances of the **pollution conditions**. The **insured** shall forward the following to the Company as soon as possible:
  - (a) All reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the claimant(s) and available witnesses;
  - (b) All correspondence between the **insured** and any third party Claimant, including but not limited to any **implementing agency**; and all demands, summonses, notices or other process or papers filed with a court of law, administrative agency, **implementing agency** or an investigative body; and

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- (c) Other information in the possession of the **insured** or its hired experts which the Company reasonably deems necessary.

10. **Section 3 – Limits of Liability and Deductible** is deleted in its entirety and replaced with the following:

### **Section 3 – Limits of Liability and Deductible**

Regardless of the number of **claims**, claimants, **pollution conditions**, **confirmed releases**, or **insureds** under this Policy, the following limits of liability apply:

#### **A. Coverage I and J Aggregate**

The Company's total liability for all **loss** covered under Coverage I and **clean-up costs** and **corrective action** covered under Coverage J shall not exceed the Aggregate Limit stated in Item 8. of the Declarations set forth in Paragraph 2. of this Endorsement.

#### **B. Each Incident Limit**

1. Subject to Paragraph A. above, the most the Company will pay for all **loss** and **clean-up costs** and **corrective action** arising from the same, related or continuous **pollution conditions** is the **each incident** limit of coverage stated in Item 3 of the Declarations set forth in Paragraph 2 of this Endorsement.
2. If the **insured** first reports a **claim**, **confirmed release** or discovers **pollution conditions** during the **Policy Period** and reports them to the Company in accordance with Section 7, all continuous or related **pollution conditions** reported to the company under a subsequent policy issued by the company or its affiliate providing substantially the same coverages as this policy shall be deemed to have been first discovered and reported during this **policy period** and shall be subject to the same limit of liability.
3. All **claims** and reports of **confirmed releases** made during one or more policy periods issued by the company or its affiliate providing substantially the same coverages, resulting in **loss**, or **clean-up costs** or **corrective action**, or in any combination thereof, and arising out of the same, continuous or related **pollution conditions**, shall be considered one incident and will be subject to the same limit of liability. Such **claims** or reports of **confirmed releases** shall be deemed first reported to the company during the policy period in which the first such **claim** or report of **confirmed release** was reported to the company or an affiliate and will be subject to the limit of liability applicable to that policy period.

#### **C. Deductible:**



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Subject to Paragraphs A. and B. above, this Policy is to pay covered **clean-up costs, corrective action or loss** in excess of the deductible amount stated in item b. of the declarations up to but not exceeding the applicable **each incident** limit of coverage, as set forth in paragraph 3. of this Endorsement.

The **insured** shall promptly reimburse the company for advancing any element of **clean-up costs or corrective action or loss** falling within the Deductible.

#### **D. Shared Limits**

By acceptance of this Policy, the **named insureds** understand, agree and acknowledge that the policy contains an aggregate limit that is applicable to, and will be shared by, all **named insureds** and all other **insureds** who are or may become insured hereunder. In view of the operation and nature of this shared aggregate limit, the **named insureds** and all other **insureds** understand and agree that prior to filing a **claim**, reporting a **confirmed release** under the policy, the aggregate limit may be exhausted or reduced by prior payments for other **claims, clean-up costs or corrective action** under the Policy.

11. **Section 6 - Conditions**, Paragraphs **D. Cancellation**, **H. Inspection**, **I. Other Insurance**, and **L. Subrogation** are deleted in their entirety and replaced with the following:

#### **D. Cancellation**

This Policy may be cancelled by the **named insured** by surrender thereof to the company or any of its authorized agents or by mailing to the company written notice stating when thereafter the cancellation shall be effective. This policy may be cancelled by the company only for the reasons stated below by mailing to the **named insured** at the address shown in the policy, written notice stating when, not less than 60 days (10 days for nonpayment of premium or material misrepresentation by the **insured**), thereafter such cancellation shall be effective. Proof of mailing of such notice shall be sufficient proof of notice.

1. Material misrepresentation by the **insured**;
2. The **insured's** failure to comply with the material terms, conditions or contractual obligations under this Policy, including failure to pay any premium when due; or
3. A change in operations at a facility containing a **storage tank system** during the **period of insurance** that materially increases a risk covered under this Policy.

The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the **period of insurance**. Delivery of such written notice either by the **named insured** or by the company shall be equivalent to mailing. If the **named insured** cancels, earned premium shall be computed in accordance with the customary



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short rate table and procedure. If the Company cancels, earned premium shall be computed pro-rata.

Premium adjustment may be either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

#### H. Inspection

To the extent the **insured** has such rights, any of the company's authorized representatives shall have the right and opportunity but not the obligation to interview persons employed by the **insured** and to inspect at any reasonable time, during the **period of insurance** or thereafter, the **storage tank system** or the site at which the **storage tank system** is located. Neither the Company nor its representatives shall assume any responsibility or duty to the **insured** or to any other party, person or entity, by reason of such right or inspection. Neither the Company's right to make inspections, sample and monitor, nor the actual undertaking thereof nor any report thereon shall constitute an undertaking on behalf of the **insured** or others, to determine or warrant that property or operations are safe, healthful or conform to acceptable engineering practices or are in compliance with any law, rule or regulation. The **named insured** agrees to provide appropriate personnel to assist the Company's representatives during any inspection.

#### I. Other Insurance

If other valid and collectible insurance or funds from any **tank fund** are available to the **insured** for **loss, clean-up costs** or **corrective action** covered by this policy, the **insured** shall promptly, upon the request of the Company, provide the Company with copies of all such policies or fund documentation. The Company's obligations are limited as follows:

1. Except as set forth in subparagraph 3. of this Paragraph, this insurance is primary, and the Company's obligations are not affected unless any of the other insurance is also primary. In that case, the Company will share with all such other insurance by the method described in Paragraph 2. below.
2. If all of the other insurance permits contribution by equal shares, the Company will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, the Company will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.
3. This insurance shall apply as excess insurance over any **tank fund**, provided that in the event of the receivership, insolvency, or inability to pay of any state fund or

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program, this insurance shall act as primary insurance. Where this insurance is excess, the Company will pay only its share of the amount of **loss, clean-up costs** or **corrective action**, if any, that exceeds the total amount available through the **tank fund**.

#### **L. 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 including without limitation, assignment of the **insured's** rights against any person or organization who caused **pollution conditions** on account of which the Company made any payment under this Policy. The **insured** shall do nothing to prejudice the company's rights under this paragraph subsequent to **loss**.

Any recovery as a result of subrogation proceedings arising out of the payment of **loss, clean-up costs** or **corrective action** covered under this policy shall accrue first to the **insured** to the extent of any payments in excess of the limit of coverage; then to the company to the extent of its payment under the policy; and then to the **insured** to the extent of its Deductible. Expenses incurred in such subrogation proceedings shall be apportioned among the interested parties in the recovery in the proportion that each interested party's share in the recovery bears to the total recovery.

12. The following are added to **Section 6 - Conditions**:

##### **Concealment or Fraud**

This entire Policy shall be void if, whether before or after **clean-up costs, corrective action** are incurred or a **claim** is first made, the **named insured** has willfully concealed or misrepresented any fact or circumstance material to the granting of coverage under this policy, including but not limited to, the description of the **storage tank system**, or the interest of the **insured** therein.

##### **Access to Information**

The **named insured** agrees to provide the company with access to any information developed or discovered by the **insured** concerning **loss, clean-up costs** or **corrective action**, or **pollution conditions** covered under this policy, whether or not deemed by the **insured** to be relevant to such **loss, clean-up costs** or **corrective action**, or **pollution conditions** and to provide the company access to interview any **insured** and review any documents of the **insured**.

13. **Section 9 – Extended Reporting Period** is deleted in its entirety and replaced with the following:

##### **EXTENDED REPORTING PERIOD FOR CLAIMS - COVERAGES I AND J:**

The **named insured** shall be entitled to an automatic **extended reporting period**, and (with certain exceptions as described in paragraph b. of this section) be entitled to purchase an optional **extended reporting period** for any coverages terminated, upon termination of coverage as defined in paragraph b.3. of this section. Neither the automatic nor the optional **extended reporting period** shall reinstate or increase any of the limits of liability of this Policy.

#### A. Automatic Extended Reporting Period

Provided that the **named insured** has not purchased any other insurance to replace this insurance and which applies to a **claim** or a **confirmed release** otherwise covered hereunder, the **named insured** shall have the right to the following: a period of six (6) months following the effective date of such termination of coverage in which to provide written notice to the company of a **claim** first made during the **policy period** or automatic **extended reporting period** and first reported within the automatic **extended reporting period**, or **confirmed release** first reported within the automatic **extended reporting period**. A **claim** first made during the **policy period** or automatic **extended reporting period** and first reported within the automatic **extended reporting period**, or **confirmed release** first reported within the automatic **extended reporting period** will be deemed to have been made on the last day of the **policy period**, provided that the **claim** or **confirmed release** arises from **pollution conditions** that commenced before the end of the **policy period** and is otherwise covered by this policy. No part of the automatic **extended reporting period** shall apply if the optional **extended reporting period** is purchased.

#### B. Optional extended reporting period

The **named insured** shall be entitled to purchase an optional **extended reporting period** upon termination of coverage as defined herein (except in the event of nonpayment of premium), as follows:

1. A **claim** first made during the **period of insurance** or during the optional **extended reporting period** and first reported during the optional **extended reporting period**, or a **confirmed release** first reported within the optional **extended reporting period**, if purchased in accordance with the provisions contained in paragraph 2. below, will be deemed to have been made on the last day of the **period of insurance**, provided that the **claim** or **confirmed release** arises from **pollution conditions** that commenced before the end of the **period of insurance** and is otherwise covered by this Policy.
2. The Company shall issue an endorsement providing an Optional **extended reporting period** of up to twelve (12) months from termination of coverage hereunder for all **storage tank systems**, or for a **storage tank system** located at a specific facility, provided that the **named insured**:

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- (a) makes a written request for such endorsement which the Company receives within sixty (60) days after termination of coverage as defined herein; and
  - (b) pays when due an amount equal to the premium for the optional **extended reporting period** plus any premium for the **period of insurance** which is owed and has not yet been paid. if these premiums are paid when due, the **extended reporting period** may not be cancelled, provided that all other terms and conditions of the Policy are met.
- 3. Termination of coverage occurs:
  - (a) at the end of the **period of insurance**, or
  - (b) at the time the Policy or renewal policy becomes effective with a decrease in the limit of liability, a reduction of coverage, an increased deductible or self-insured retention, new exclusion or any other change in coverage less favorable to the **Insured**.
- 4. The Optional **extended reporting period** is available to the **named insured** for not more than 100% of the policy premium of this Policy.
- 14. **Section 4 - Definitions, Paragraphs C. Claim, D. Clean-up costs, J. Extended reporting period, Q. Loss, X. Period of insurance, BB. Property damage, DD. Responsible insured and EE. Restoration costs** are deleted in their entirety and replaced with the following:
  - C. Claim** means a written demand received by an **insured** seeking a remedy and alleging liability or responsibility on the part of the **insured** for loss.
  - D. Clean-up costs** means reasonable and necessary expenses for the investigation, removal or remediation of **pollution conditions** including associated monitoring, or disposal of soil, surfacewater, groundwater or other contamination:
    - (a) To the extent required by **environmental laws**; or
    - (b) That have been actually incurred by the government or any political subdivision of the United States of America or any state thereof or Canada or any province thereof, or by third parties.

**Clean-up costs** also include **restoration costs**.

- J. Extended reporting period** means either the automatic additional period of time or the optional additional period of time, whichever is applicable, in which to report **claims** or **confirmed releases** following termination of coverage described in Section 6 of this Policy as amended in Paragraph 13. of this Endorsement.

**Q. Loss** means, under the applicable Coverages:

1. Monetary awards or settlements of compensatory damages; where allowable by law, punitive, exemplary, or multiple damages; and civil fines, penalties, or assessments for **bodily injury** or **property damage**; or

2. **Clean-Up costs** or **corrective action**

**X. Period of insurance** means the period set forth in Item 2 of the Declarations, or any shorter period arising as a result of:

1. Cancellation of this Policy; or
2. With respect to particular **Storage tank system(s)**:
  - (a) the deletion or addition of such **storage tank system** from this policy by the company at the **named**; or
  - (b) the sale, giving away or abandonment of a **storage tank system**, or the sub-leasing of such **storage tank system**, unless the sub-lease has been approved in writing by the Company prior to the commencement of the sub-lease.

**BB. Property damage** means:

1. Physical injury to or destruction of tangible property of parties other than the **insured** including the resulting loss of use thereof;
2. Loss of use of tangible property of parties other than the **insured** that has not been physically injured or destroyed;

**Property damage** does not include **clean-up costs** or **corrective action**.

**DD. Responsible insured** means the manager or supervisor of the **Named Insured** responsible for environmental affairs, control or compliance, or any owner or operator of a **storage tank system**, or any officer, director or partner of the **named insured**.

**EE. Restoration costs** means reasonable and necessary costs incurred by the **insured** with the company's written consent, which consent shall not be unreasonably withheld or delayed, to repair, replace or restore real or personal property, that is damaged during work performed in the course of incurring **clean-up costs** or **corrective action** whether or not such property is also damaged by **pollution conditions**, to substantially the same condition it was in prior to being damaged during work performed in the course of incurring **clean-up costs** or **corrective action**. **restoration costs** shall not include costs associated with improvements or betterments.

15. The following are added to **Section 4 - Definitions**:

**Confirmed release** means any **pollution condition** from a **storage tank system**, including those from an overfill of a **storage tank system**, that has been investigated and confirmed by or on behalf of the **insured** during the **period of insurance** through a system tightness test, site check, or other procedure approved by the **implementing agency** in accordance with **environmental law**.

**Corrective Action** means:

1. Reasonable and necessary costs for response, abatement, investigative, and removal actions resulting from a **confirmed release** as legally required by Subpart F of the federal underground storage tank regulations, 40 C.F.R. 280.60 through 280.66, and 280.72, or as legally required by other applicable federal regulations or by other applicable regulations promulgated by a state under an underground storage tank program approved by the United States Environmental Protection Agency in accordance with Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended; or
2. Reasonable and necessary costs for the cleanup, pursuant to a written order from the **implementing agency** and with the prior written approval of the Company, of any **pollution condition** in soil or groundwater due to a **confirmed release**, including the preparation, development, modification and implementation of a "corrective action plan" as defined in 40 C.F.R. 280.66, and the monitoring, evaluation and reporting of the results of the implementation of such plan.

**Implementing Agency** means the U.S. Environmental Protection Agency or a state or local agency having jurisdiction pursuant to **environmental laws**.

**Storage tank system** means a stationary tank or tanks owned or operated by the **insured** and scheduled in Paragraph 17. of this Endorsement. **Storage tank system** includes any integral piping or dispensing equipment, ancillary equipment and containment system associated with the tanks located at the **insured's own site**.

**Tank fund** means any state storage tank trust fund, state administered insurance program, or restoration funding for **storage tank system** whose owners qualify for reimbursement, or any self insurance fund established for the purpose of funding **clean-up costs** or **corrective action** for any **pollution condition** from a **storage tank system**.

16. The provisions of this endorsement supersede any provisions of any other endorsement attached to this Policy to the extent that any such provisions are contrary to the provisions of this endorsement.
17. Scheduled **Storage tank system(s)**:

Allianz Underwriters Insurance Company

Insured's Own Site	Tank Capacity (gallons)	Tank ID	AST / UST	Year installed	Retroactive Date
Country Club Center 19950 West Country Club Drive, Aventura, FL 32541	1,000	000000	AST	TBD	Date of install
Turnberry Isle Resort & Club - Golf Maint Shop 19965 W Country Club Dr Aventura, FL 33180	4,000	1	AST	1998	Date of install
	500	2	AST	1998	Date of install
	500	3	AST	1998	Date of install
Turnberry Isle Resort & Club Engineering 19999 W Country Club Dr Aventura, FL 33180	2,000	1	AST	2001	Date of install
	500	2	AST	1999	Date of install
Turnberry Yacht Club & Marina Resort Docks 19755 Turnberry Way Aventura, FL 33180	275	1	AST	1998	Date of install
Sorrento, 4441 Collins Ave, Miami Beach, Florida 33140	550	1	AST	TBD	Date of install
Tresor, 4441 Collins Ave, Miami Beach, Florida 33140	2,000	1	AST	TBD	Date of install
Chateau & Versailles 4441 Collins Ave Miami Beach, Florida 33140	4,800	1	AST	TBD	Date of install
	4,800	2	AST	TBD	Date of install
	4,800	3	AST	TBD	Date of install
	4,800	4	AST	TBD	Date of install

All other terms, conditions and exclusions will remain the same.

Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 10**

### **ADDITIONAL INSURED ENDORSEMENT**

This Endorsement modifies insurance provided under the following:

#### **ENVIRONMENT PROTECT PREMISES**

This policy is amended as follows:

It is hereby agreed that the following scheduled entities will be an additional insured and that the coverage afforded by such additional insured status is as follows:

- a. Solely to the additional insured's liability arising out of the **named insured's** ownership, operation, maintenance or use of the **insured's own site**; and
- b. Only if the additional insured is named in a suit as a co-defendant with the **named insured**, alleging the additional insured is liable on the basis described in paragraph a. above.

#### Schedule

Any entity where required by written contract executed in advance of **loss** or **claim**.

All other terms, conditions and exclusions will remain the same.



Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 11**

### **ADDITIONAL INSURED FOR SCHEDULED INSURED'S OWN SITE ENDORSEMENT**

This Endorsement modifies insurance provided under the following:

#### **ENVIRONMENT PROTECT PREMISES**

This policy is amended as follows:

It is hereby agreed that the following scheduled entities will be an additional insured and that the coverage afforded by such additional insured status is as follows:

- a. Solely to the additional insured's liability arising out of the **named insured's** ownership, operation, maintenance or use of the **insured's own site**, 18501 Collins Ave., Sunny Isle Beach, FL 33160; and
- b. Only if the additional insured is named in a suit as a co-defendant with the **named insured**, alleging the additional insured is liable on the basis described in paragraph a. above.

#### Schedule

Related Real Estate Debt Strategies, LLC on its own behalf and as agent on behalf of the lenders,  
together with their successors and/or assigns  
Related TB Pref DDMA LLC  
Related TB Pref NEC LLC  
Related TB Pref Universe LLC  
Mezzanine Partners III LP  
AP Mezzanine Partners III LP

All other terms, conditions and exclusions will remain the same.

Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 12**

## **NAMED INSURED – SCHEDULED ENTITIES ENDORSEMENT**

This Endorsement modifies insurance provided under the following:

### **ENVIRONMENTAL PROTECT PREMISES**

This policy is amended as follows:

**Section 4 – Definitions, S. Named insured** is amended to include the following:

**Named insured** also means the Scheduled Entities listed below:

Scheduled Entities:

Jeff Soffer  
Istihmar PJSC  
Istihmar Hotels PFZ  
Istihmar Building FZE  
Fontainebleau Florida Tower 2, LLC  
Fontainebleau Florida Tower 3, LLC  
Fontainebleau Tower 3 Garage Restaurant, LLC  
Fontainebleau Florida Hotel, LLC  
Fontainebleau Miami Mezz B Borrower, LLC  
Fontainebleau Miami Mezz Borrower, LLC  
Fontainebleau III Ocean Club Condominium Association, Inc.  
Fontainebleau Tower III Condominium Association, Inc.  
Fontainebleau II Condominium Association, Inc.  
Beach Club Acquisition LLC  
  
Aventura Mall Venture, a Florida General Partnership  
Aventura Mall Expansion Venture, a Florida General Partnership  
Destin Commons Ltd., a Florida Limited Partnership  
Destin Commons Phase III LP, a Delaware Limited Partnership  
Commons Village East, Ltd.  
Cabi Turnberry Aventura Offices, LP a Florida limited liability company  
Champion Retail Limited Partnership  
N-Site Limited Partnership, a Florida limited partnership  
Hallandale Group Limited Partnership, a Florida limited partnership  
TB Orlando Hotel LLC, a Delaware limited liability company  
TB Isle Resort LP, a Delaware limited partnership  
Beach Club Acquisition LLC, a Florida limited liability company  
YCM Acquisitions, LLC  
Nashville Downtown Hotel LLC

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Downtown Parking Garage LLC  
Hilton Downtown Nashville Hotel & Garage Condominium Association, Inc.  
Amnesia International LLC, a Florida limited liability company  
JS Ohio Motorsports, LLC, an Ohio limited liability company  
Western Colorado Motorsports LLC, a Colorado limited liability company  
JS CA Motorsports, LLC  
Aventura Fashion Island, LP a Florida L.P.  
Turnberry/Centra Office Sub, LLC , a Delaware limited liability company  
8th and Demonbreun Hotel, LP  
JS Florida Motorsports LLC, a Florida limited liability company  
Turnberry Beach Road LLC  
Parcel 220, LLC, a Florida limited liability company  
YCM Acquisition, LLC  
Turnberry Harbour Holdings, LLC, a Florida limited liability company  
TH Phase 1 Property, Inc. a Florida Corporation  
Turnberry Associates  
Turnberry Doral Development, LP, a Florida limited liability company  
KBNP LLC, a Delaware limited liability company  
Mall Parcels A&C/SR-1 Trust LLC, a Florida limited liability company  
Parcel U/SR-1 Trust, LLC a Florida limited liability company

All other terms and conditions remain unchanged.



Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 13**

### **KNOWN CLAIM(S) EXCLUSION ENDORSEMENT**

This Endorsement modifies insurance provided under the following:

#### **ENVIRONMENT PROTECT PREMISES**

This policy is amended as follows:

The following is added to **Section 5.1 - Exclusions**:

This Policy does not apply to **Loss**:

#### **Known Claim(s):**

Arising from a known **claim** or legal action existing prior to the first date of the **period of insurance** and known by a **responsible insured** as disclosed in the application or submission materials including, but not limited to:

AIG PLS 0004196179-017-001 Claim #501-484461-001/3044674224US, DOL 7/31/2017

All other terms, conditions and exclusions will remain the same.

Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 14**

## **SCHEDULE OF INSURED CONTRACT ENDORSEMENT**

This Endorsement modifies insurance provided under the following:

### **ENVIRONMENT PROTECT PREMISES**

This policy is amended as follows:

The following contract(s) or agreement(s) are scheduled as an **insured contract**:

- a. A contract for a lease of premises, a purchase and sale agreement entered into prior to date of **loss**, or a purchase and sale agreement scheduled onto this policy;
- b. A sidetrack agreement entered into prior to date of **loss**;
- c. Any easement or license agreement entered into prior to date of **loss**;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality entered into prior to date of **loss**;
- e. Solely with respect to **covered operation**, that part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for bodily injury, property damage, or emergency response expense to a third person or organization entered into prior to date of **loss**.

All other terms and conditions of this policy remain unchanged.

Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 15**

### **DEDUCTIBLE INCIDENT, AGGREGATE AND MAINTENANCE ENDORSEMENT**

This Endorsement modifies insurance provided under the following:

#### **ENVIRONMENT PROTECT PREMISES**

This policy is amended as follows:

1. All references to deductible in Item 7. PURCHASED COVERAGE SECTIONS – DEDUCTIBLES AND LIMITS OF LIABILITY are deleted in their entirety and replaced with the following:

Each Incident Deductible:

\$ 100,000	Each Incident Deductible
\$ 300,000	Aggregate Deductible
\$ 25,000	Each/Every Incident (Maintenance) Deductible

2. **Section 3 – Limits of Liability and Deductible, F. Deductible** is deleted in its entirety and replaced with the following:

#### **F. Deductible**

1. Subject to the policy aggregate limit and coverage section aggregate limit, the Company will pay all **loss** in excess of the deductible amount stated in the Declarations for the applicable coverage, up to but not exceeding the applicable Each Incident Limit of coverage. Once the **insured** pays deductible amounts which in the aggregate equal or exceed the amount shown above as the Aggregate Deductible, the Each/Every Incident (Maintenance) Deductible amount shown above shall apply thereafter to Each Incident. The Each/Every Incident (Maintenance) Deductible shall be paid by the **insured** and remain uninsured. In the event that more than one deductible amount can apply to the same **pollution condition(s)** and results in coverage under more than one coverage section, only the highest deductible amount will be applied.

The Company may advance payment of part or all of the deductible and, upon the Company's request, the **insured** will promptly reimburse the Company.

2. Subject to the policy aggregate limit and coverage section aggregate limit the Company will pay all **business interruption expense** and **extra expense** sustained during the first three (3) days in the **interruption period**, stated in the Declarations.

All other terms, conditions and exclusions will remain the same.

Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 16**

## DISCLOSED DOCUMENT ENDORSEMENT

This Endorsement modifies insurance provided under the following:

### ENVIRONMENT PROTECT PREMISES

This policy is amended as follows:

It is hereby agreed that the following documents are deemed disclosed to the Company as of the first date of the **period of insurance** as stated on the Declarations:

Address	City	State	Zip	Report Reviewed (Title, Author, Date)
807 Demonbreun St./ 201 8th Avenue South	Nashville	TN	37203	Phase I ESA by Vertex dated Nov 2015
Bullfinch Triangle Parcels 1B and 1C on Beverly Street	Boston	MA		Phase I ESA by Loitherstein Environmental Engineering, Inc. dated May 2007; and Phase II ESA by McPhail Associates dated July 2013;  Parcel 1B by McPhail Associates dated Oct 2015
Southwest 154th Avenue and Southwest 20th Street	Davie	FL		Phase I ESA dated April 2007 and Limited Phase II ESA by Langan Engineering & Environmental Services dated April 2007
2750 Aventura Boulevard and 19645 Biscayne Boulevard	Aventura	FL	33180	Phase I ESA by Langan Engineering & Environmental Services dated July 2011
18501 Collins Avenue	Sunny Isles Beach	FL		Phase I ESA by Langan Engineering & Environmental Services dated June 2017
Vicinity of William Lehman Causeway and East Country Club Drive	Aventura	FL	33180	Phase I ESA by Langan Engineering and Environmental Services dated Oct 2000
18701-18995 Biscayne Boulevard and 2711 N.E. 187th Street	Aventura	FL		Phase I ESA by Professional Service Industries, Inc. dated April 2006

Allianz Underwriters Insurance Company

Address	City	State	Zip	Report Reviewed (Title, Author, Date)
19501 Biscayne Boulevard	Aventura	FL		Groundwater Sampling Report by Langan dated June 26, 2017
Vacant Lot at intersection of Easterly Right of Way Line of State Road 293 and Northerly Right of Way Line of State Road 30	Undivided Township 2 South, Range 22 West, Okaloosa County	FL		Phase I ESA by EBI Consulting dated Mar 2015
Highway 98 and Mid Bay Bridge Road	Destin	FL		Phase I ESA by ATC Associates dated Jan 2003
4300 Legendary Drive	Destin	FL	32541	Phase I ESA by EBI Consulting dated June 2012
Southwest Corner NW 41st Street and Florida Turnpike	Miami-Dade County	FL		Phase I ESA by All State Engineering and Testing Consultants, Inc. dated Mar 2001
1551 Parkmoor Ave	San Jose	CA	95126	Phase I ESA Update by ERAS Environmental, Inc. dated Oct 2015
1500 & 1550 Beach Road	Tequesta	FL		Phase I ESA by Landscience, Inc. dated June 2017
Turnberry Isle Resort & Club, 1999 West Country Club Drive	Aventura	FL	33180	Phase I ESA by IVI Assessment Services, Inc. dated December 31, 2009
Turnberry Isle 19999 West Country Club Drive and 18501 Collins Avenue	Aventura	FL	33180	Phase I ESA by EBI Consulting dated June 21, 2012
Turnberry Ocean Club 18501 Collins Avenue	Sunny Isles Beach	FL		Phase I ESA by Langan Engineering and Environmental Services, Inc. dated June 2, 2017.

All other terms and conditions of this policy remain unchanged.



Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 17**

**OTHER INSURANCE AMENDATORY (PRIMARY AND NON CONTRIBUTORY  
EXCEPT FOR MICROBIAL MATTER OR TANK FUND) ENDORSEMENT**

This Endorsement modifies insurance provided under the following:

**ENVIRONMENTAL PROTECT PREMISES**

This policy is amended as follows:

1. **Section 6 – Conditions, I. Other insurance** is deleted in its entirety and replaced with the following:

**I. Other insurance**

If other valid and collectible insurance is available to any **insured** covering a **loss, claim, business interruption expense, emergency response cost, or pollution condition**, also covered by this Policy, other than a policy that is specifically written to apply in excess of this Policy, then the company's obligation to the **insured** are limited as follows:

1. Except as set forth in paragraphs 2., 3. and 4. below, this insurance is primary and the Company's obligations as primary insurer are not affected by any other primary insurance and the Company will not seek contribution from any other insurance available to the **insured**.
2. This insurance is excess over any **tank fund**. This excess insurance shall in no way be increased or expanded or drop-down as a result of receivership, insolvency, or inability or refusal to pay of such **tank fund** with respect to both duty to defend or duty to indemnify.
3. Where this insurance is excess insurance, the Company will pay only its share of the amount of **Loss** if any, that exceeds the total amount of all such other valid insurance, and the total of all deductible and self-insured amounts under all other valid insurance.
4. Solely with respect to **loss or claims** resulting from a **pollution condition** arising from **microbial matter**, if other valid and collectible insurance is available to any **insured** covering a **loss** also covered by this Policy, other than a policy that is specifically written to apply in excess of this Policy, the insurance afforded by this Policy will apply in excess of and will not contribute with such other insurance.

Allianz Underwriters Insurance Company

2. The following is added to **Section 4 – Definitions**:

**Tank Fund** means any state storage tank trust fund, state administered insurance program, or restoration funding for **underground storage tanks** whose owners qualify for reimbursement, or any self insurance fund established for the purpose of funding **Clean-Up Costs** for **Pollution Conditions** from a **underground storage tanks**.

3. The following is added to **Section 6 – Conditions, I. Other insurance**:

**Maintenance of tank fund eligibility**

It is a condition precedent to coverage under this Policy that the **insured** shall maintain eligibility to any **tank fund** during the **period of insurance**. The **insured** understands and acknowledges that this Policy is issued in reliance upon this agreement.

All other terms, conditions and exclusions will remain the same.

Allianz Underwriters Insurance Company  
**Policy Number:** U5L000150180  
**Effective Date:** April 09, 2018

**Endorsement No. 18**

### **SITE-SPECIFIC SOIL MANAGEMENT EXCLUSION**

This Endorsement modifies insurance provided under the following:

#### **ENVIRONMENT PROTECT PREMISES**

Solely with respect to the scheduled **insured's own site(s)** listed below this policy is amended as follows:

1. The following is added to **Section 5.1 - Exclusions**:

##### **Soil Management**

**Clean-up costs** or **business interruption expense** arising from the removal, treatment or disposal of soil either directly or indirectly related to a **capital improvement** at the **insured's own site**.

2. The following is added to **Section 4 - Definitions**:

**Capital improvement** means any activity that:

- a. disturbs or alters the foundations or other subsurface installations of existing buildings or structures, or
- b. requires subsurface excavation, site regarding, or installation or demolition of buildings, structures, systems or utilities

on the **insured's own site**.

##### **Scheduled insured's own site:**

18501 Collins Avenue, Sunny Isles Beach, FL 33160

All other terms and conditions and exclusions will remain unchanged.

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**EXHIBIT E**

**U.S. Terrorism Risk Insurance Act of 2002 as amended  
Not Purchased Clause**

*This Clause is issued in accordance with the terms and conditions of the "U.S. Terrorism Risk Insurance Act of 2002" as amended as summarized in the disclosure notice.*

It is hereby noted that the Underwriters have made available coverage for "insured losses" directly resulting from an "act of terrorism" as defined in the "U.S. Terrorism Risk Insurance Act of 2002", as amended ("TRIA") and the Insured has declined or not confirmed to purchase this coverage.

This Insurance therefore affords no coverage for losses directly resulting from any "act of terrorism" as defined in TRIA except to the extent, if any, otherwise provided by this policy.

All other terms, conditions, insured coverage and exclusions of this Insurance including applicable limits and deductibles remain unchanged and apply in full force and effect to the coverage provided by this Insurance.

LMA5219  
12 January 2015



SPECIAL RISK UNDERWRITERS

An AmWINS Group Company

## Property Declarations - Participating

This Declaration Page is attached to and forms part of Certificate provisions

Previous No.	S-1802-074102-01	Account No.	S-1810-530273-01
I. Certain Underwriters at Lloyd's		Policy No.	I. AQS-190557
HDI Global Specialty SE		Policy No.	HAQS-190557
General Security Indemnity Company of Arizona		Policy No.	TR00093911900557
Crum & Forster Specialty Insurance Company		Policy No.	SRC-100428
Western World Insurance Company		Policy No.	SCO0000282
Safety Specialty Insurance Company		Policy No.	AMS-190557
II. Certain Underwriters at Lloyd's		Policy No.	II. AQS-190558
HDI Global Specialty SE		Policy No.	HAQS-190558
General Security Indemnity Company of Arizona		Policy No.	TR00093911900558

Name and Address 831 Federal Highway Acquisition LLC dba The Big Easy  
of the Insured 19501 Biscayne Blvd., Suite 400  
Aventura, FL 33180

Policy Period Effective From 4/24/2019 to 4/24/2020 Both days at 12:01 a.m. standard time at the Insured's mailing address

**THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED - THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.**

Limits of Liability: I. \$10,000,000 per Occurrence  
II. \$35,623,432 in excess of \$20,000,000 per Occurrence

COMMERCIAL PROPERTY COVERAGE PART	PROPERTY	
I. Certain Underwriters at Lloyd's	Premium	\$138,419.00
HDI Global Specialty SE	Premium	\$26,092.00
General Security Indemnity Company of Arizona	Premium	\$69,123.00
Crum & Forster Specialty Insurance Company	Premium	\$17,972.00
Western World Insurance Company	Premium	\$17,972.00
Safety Specialty Insurance Company	Premium	\$6,912.00
II. Certain Underwriters at Lloyd's	Premium	\$12,585.00
HDI Global Specialty SE	Premium	\$2,372.00
General Security Indemnity Company of Arizona	Premium	\$6,285.00



SPECIAL RISK UNDERWRITERS

An AmWINS Group Company

## Schedule Of Additional Participating Companies

	POLICY NO.	PREMIUM
II. Crum & Forster Specialty Insurance Company	SRC-100429	\$1,634.00
Western World Insurance Company	SCO0000283	\$1,634.00
Safety Specialty Insurance Company	AMS-190558	\$628.00

Surplus Lines Agent's Name: James Ayers Compton

Surplus Lines Agent's Address: 302 Knights Run Av. St. 1240  
Tampa, FL 33602


Surplus Lines Agent's License #: A052540

Producing Agent's Name: Marsh USA- Atlanta

Producing Agent's Address: 3560 Lenox Road Suite 2400 Atlanta, GA 30326


This insurance is issued pursuant to the Florida Surplus Lines Law. Persons insured by surplus lines carriers do not have the protection of the Florida Insurance Guaranty Act to the extent of any right of recovery for the obligation of an insolvent unlicensed insurer.

Premium: \$301,628.00	Tax: \$15,465.95	Service Fee: _____
EMPA Surcharge: _____	Broker Fee: _____	
Inspection Fee: \$185.00	Policy Fee: \$500.00	

Surplus Lines Agent's Countersignature: \_\_\_\_\_ 

Inspection Fee	\$185.00
CAT Modeling Fee	\$500.00
<b>Total Advance Premium</b>	<b>\$302,313.00</b>

Minimum Earned Premium 35.00%	
Dated <u>05/21/2019</u> By <u></u>	Address <u>AmWINS Special Risk Underwriters, LLC</u> <u>4725 Piedmont Row Drive</u> <u>Charlotte, NC 28210</u>
In the event of a claim, notify: Peninsula Insurance Bureau, 2842 Lent Road, Apopka, FL 32712; Email <a href="mailto:tpa@pibadjusters.com">tpa@pibadjusters.com</a>	
State stamp if applicable	

Forms attached hereto:

**FORMS APPLICABLE TO Common Forms**

LMA 5219 -- TRIA - Not Purchased Clause  
SRU-001 0114 -- Property Declarations - Participating  
Certain Underwriters At Lloyd's Syndicate List  
SLC-3 (USA) 2014 -- Policy terms specific to various supporting insurers to this policy  
SRU-023 0119 -- Contract Allocation Endorsement - SRU-CA  
SRU-023 0119 SUP -- Post Binding Worksheet  
SRU-023 0119 SUP 4 -- Company Codes  
SRU-003 0118 -- AmWINS Property Form 2018  
SRU-015 0119 -- Flood Endorsement  
SRU-021 0116 -- Earthquake Excluding Sprinkler Leakage Endorsement  
SRU-004 0710 -- CAT Minimum Earned Premium  
SRU-005 0710 -- Electronic Date Recognition Exclusion EDRE  
SRU-006 0710 -- Biological Or Chemical Materials Exclusion  
SRU-007 0710 -- Radioactive Contamination Exclusion Clause - Physical Damage Direct USA  
SRU-008 0710 -- Land Water and Air Exclusion  
SRU-009 0710 -- Seepage And/Or Pollution And/Or Contamination Exclusion  
SRU-011 0710 -- Asbestos Endorsement  
SRU-012 0710 -- Electronic Data Endorsement B  
SRU-013 0710 -- Mold Exclusion  
NMA 2918 -- War and Terrorism Exclusion Endorsement  
SRU-016 0710 -- Occurrence Limit of Liability - Stated Value  
SRU-022 0710 -- Boiler And Machinery Exclusion  
SRU-024 0710 -- Protective Safeguards - Fire Endorsement  
SRU-025 0710 -- Burglary And Robbery Protective Safeguards  
SRU-035 0911 -- Joint Loss Agreement - Property and Equipment Breakdown  
SRU-040 0312 -- Policy Changes 2  
SRU-068 0917 -- Pre-Existing Damage Exclusion Endorsement  
SRU-069 0118 -- Sinkhole Endorsement  
SRU-059 0116 -- OFAC Endorsement  
LMA 5021 -- Applicable Law USA  
LMA 3100 -- Sanction Limitation and Exclusion Clause  
PROPERTY LOSS NOTICE -- Property Loss Notice

**FORMS APPLICABLE TO General Security Indemnity Co. of AZ ONLY**

SRU-040 0312 Policy Changes 1 - SCOR SERVICE OF SUIT CLAUSE



# CERTAIN UNDERWRITERS AT LLOYD'S SYNDICATE LIST

If Certain Underwriters at Lloyd's of London are listed as security on the Contract Allocation Endorsement attached to the policy, the list of syndicates is shown below:

Account Number: S-1810-530273-01

UMR Number: B123019AWS1637

Certificate Number: AQS-190557 / AQS-190558

Syndicate Number	Syndicate Abbreviation
0510	KLN
2987	BRT
2988	BRT
1458	RNR
1200	AMA
1686	AXS
2003	XLC
5000	TRV
0033	HIS
1183	TAL
1861	ATL
4444	CNP
2001	AML
1886	QBE
2623	AFB
0623	AFB

## **Policy terms specific to various supporting insurers to this policy:**

### **Underwriters at Lloyd's**

**SLC-3 (USA) This Insurance** is effected with certain Underwriters at Lloyd's, London.

**This Certificate** is issued in accordance with the limited authorization granted to the Correspondent by certain Underwriters at Lloyd's, London whose syndicate numbers and the proportions underwritten by them can be ascertained from the office of the said Correspondent (such Underwriters being hereinafter called "Underwriters") and in consideration of the premium specified herein, Underwriters hereby bind themselves severally and not jointly, each for his own part and not one for another, their Executors and Administrators.

**The Assured** is requested to read this Certificate, and if it is not correct, return it immediately to the Correspondent for appropriate alteration.

### **Certificate Provisions**

1. **Signature Required.** This Certificate shall not be valid unless signed by the Correspondent on the attached Declaration Page.
2. **Correspondent Not Insurer.** The Correspondent is not an Insurer hereunder and neither is nor shall be liable for any loss or claim whatsoever. The Insurers hereunder are those Underwriters at Lloyd's, London whose syndicate numbers can be ascertained as hereinbefore set forth. As used in this Certificate "Underwriters" shall be deemed to include incorporated as well as unincorporated persons or entities that are Underwriters at Lloyd's, London.
4. **Assignment.** This Certificate shall not be assigned either in whole or in part without the written consent of the Correspondent endorsed hereon.
5. **Attached Conditions Incorporated.** This Certificate is made and accepted subject to all the provisions, conditions and warranties set forth herein, attached or endorsed, all of which are to be considered as incorporated herein.
6. **Cancellation.** If this Certificate provides for cancellation and this Certificate is cancelled after the inception date, earned premium must be paid for the time the insurance has been in force.

### **A. CLAIMS ADJUSTMENTS AND REPORTING**

All claims hereunder shall be adjusted by:

Peninsula Insurance Bureau  
2842 Lent Road, Apopka, FL 32712  
Email Address: tpa@pibadjusters.com

And/or its assigned adjusters and the costs of such adjustments shall be borne by each Company in proportion to its pro-rata participation in the Insured's Property Insurance Program.

In the event the Company elects to use its own adjusters or independent adjusters or consultants other than as listed above, expenses so incurred shall be borne solely by the Company.

It is further understood and agreed that, notwithstanding any provision contained elsewhere in this policy to the contrary, the Insured will be deemed to be in full compliance with any claim notice requirements, if notice of an occurrence is made to the Company(s) as soon as practicable after knowledge by the Insured or their representatives, that such occurrence will, or is likely to result in a claim under the contract. Any unintentional failure to report any occurrence or claim shall not invalidate coverage with respect to any such occurrence or claim.

## **B. SEVERAL LIABILITY NOTICE**

The liability of an insurer under this contract is several and not joint with other insurers party to this contract. An insurer is liable only for the proportion of liability it has underwritten. An insurer is not jointly liable for the proportion of liability underwritten by any other insurer. Nor is an insurer otherwise responsible for any liability of any other insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by an insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown in this contract.

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is an insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

Although reference is made at various points in this clause to "this contract" in the singular, where the circumstances so require this should be read as a reference to contracts in the plural.

LMA5096 (Combined Certificate)

7 March 2008

## **C. SERVICE OF SUIT CLAUSE (U.S.A) (NMA 2868)**

It is agreed that in the event of the failure of the Underwriters hereon to pay any amount claimed to be due hereunder, the Underwriters hereon, at the request of the Insured, will submit to the jurisdiction of a Court of competent jurisdiction within the United States. Nothing in this clause constitutes or should be understood to constitute a waiver of Underwriters' rights to commence an action in any Court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another Court as permitted by the laws of the United States or of any State in the United States. It is further agreed that service of process in such suit may be made upon

If the cause of action arises in California:  
Eileen Ridley  
FLWA Service Corp. c/o Foley & Lardner LLP  
555 California Street, Suite 1700  
San Francisco, CA 94104-1520

If the cause of action arises in any other state:  
Mendes and Mount, LLP  
750 Seventh Avenue  
New York, New York 10019-6829

and that in any suit instituted against any one of them upon this Policy, Underwriters will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

The above-named are authorized and directed to accept service of process on behalf of Underwriters in any such suit and/or upon the request of the Insured to give a written undertaking to the Insured that they will enter a general appearance upon Underwriters' behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefore, Underwriters hereon hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Insured or any beneficiary hereunder arising out of this Policy, and hereby designate the person(s) or firm stated in Item 13 of the Schedule as the person to whom the said officer is authorized to mail such process or a true copy thereof.

#### D. Short Rate Cancellation.

If the attached provisions provide for cancellation, the table below will be used to calculate the short rate proportion of the premium when applicable under the terms of cancellation.

Days Insurance in Force	Per Cent of one year Premium	Days Insurance in Force	Per Cent of one year Premium	Days Insurance in Force	Per Cent of one year Premium	Days Insurance in Force	Per Cent of one year Premium
1.....	5%	66 - 69 .....	29%	154 - 156 .....	53%	256 - 260 .....	77%
2.....	6	70 - 73 .....	30	157 - 160 .....	54	261 - 264 .....	78
3 - 4 .....	7	74 - 76 .....	31	161 - 164 .....	55	265 - 269 .....	79
5 - 6 .....	8	77 - 80 .....	32	165 - 167 .....	56	270 - 273 ( 9 mos ) .....	80
7 - 8 .....	9	81 - 83 .....	33	168 - 171 .....	57	274 - 278 .....	81
9 - 10 .....	10	84 - 87 .....	34	172 - 175 .....	58	279 - 282 .....	82
11 - 12 .....	11	88 - 91 ( 3 mos ) .....	35	176 - 178 .....	59	283 - 287 .....	83
13 - 14 .....	12	92 - 94 .....	36	179 - 182 ( 6 mos ) .....	60	288 - 291 .....	84
15 - 16 .....	13	95 - 98 .....	37	183 - 187 .....	61	292 - 296 .....	85
17 - 18 .....	14	99 - 102 .....	38	188 - 191 .....	62	297 - 301 .....	86
19 - 20 .....	15	103 - 105 .....	39	192 - 196 .....	63	302 - 305 ( 10 mos ) .....	87
21 - 22 .....	16	106 - 109 .....	40	197 - 200 .....	64	306 - 310 .....	88
23 - 25 .....	17	110 - 113 .....	41	201 - 205 .....	65	311 - 314 .....	89
26 - 29 .....	18	114 - 116 .....	42	206 - 209 .....	66	315 - 319 .....	90
30 - 32 ( 1 mos ) .....	19	117 - 120 .....	43	210 - 214 ( 7 mos ) .....	67	320 - 323 .....	91
33 - 36 .....	20	121 - 124 ( 4 mos ) .....	44	215 - 218 .....	68	324 - 328 .....	92
37 - 40 .....	21	125 - 127 .....	45	219 - 223 .....	69	329 - 332 .....	93
41 - 43 .....	22	128 - 131 .....	46	224 - 228 .....	70	333 - 337 ( 11 mos ) .....	94
44 - 47 .....	23	132 - 135 .....	47	229 - 232 .....	71	338 - 342 .....	95
48 - 51 .....	24	136 - 138 .....	48	233 - 237 .....	72	343 - 346 .....	96
52 - 54 .....	25	139 - 142 .....	49	238 - 241 .....	73	347 - 351 .....	97
55 - 58 .....	26	143 - 146 .....	50	242 - 246 ( 8 mos ) .....	74	352 - 355 .....	98
59 - 62 ( 2 mos ) .....	27	147 - 149 .....	51	247 - 250 .....	75	356 - 360 .....	99
63 - 65 .....	28	150 - 153 ( 5 mos ) .....	52	251 - 255 .....	76	361 - 365 ( 12 mos ) .....	100

Rules applicable to insurance with terms less than or more than one year:


A. If insurance has been in force for one year or less, apply the short rate table for annual insurance to the full annual premium determined as for insurance written for a term of one year.

B. If insurance has been in force for more than one year:

1. Determine full annual premium as for insurance written for a term of one year.
2. Deduct such premium from the full insurance premium, and on the remainder calculate the pro rata earned premium on the basis of the ratio of the length of time beyond one year the insurance has been in force to the length of time beyond one year for which the policy was originally written.
3. Add premium produced in accordance with items (1) and (2) to obtain earned premium during full period insurance has been in force.

# Policy Changes

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

<b>POLICY NUMBER(S):</b> TR00093911900557 TR00093911900558	<b>POLICY CHANGES EFFECTIVE:</b> 4/24/2019  <b>POLICY CHANGE NO.</b> 1	<b>COMPANY(S):</b>  General Security Indemnity Company of Arizona
<b>NAMED INSURED:</b> 831 Federal Highway Acquisition LLC dba The Big Easy		<b>AUTHORIZED REPRESENTATIVE:</b> 

It is hereby agreed and understood that the following change(s) are made to this policy:

**With Respect to the Coverage provided by:**

General Security Indemnity Company of Arizona

THE FOLLOWING APPLICABLE CLAUSE SHALL APPLY TO THE INDICATED COMPANY, PROVIDED THAT THE COMPANY IS PARTICIPATING ON THE POLICY:

**Service of Suit Clause**

In the event of the failure of the Company to pay any amount claimed to be due hereunder, the Company, at the request of the Insured, shall submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this Clause constitutes or should be understood to constitute a waiver of the Company's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. The Company, once the appropriate court is selected, whether such court is the one originally chosen by the Insured and accepted by the Company or is determined by removal, transfer, or otherwise, as provided for above, shall comply with all requirements necessary to give said court jurisdiction and, in any suit instituted against the Company, shall abide by the final decision of such court or of any appellate court in the event of an appeal.

Service of process in such suit may be made upon:

General Security Indemnity Company of Arizona

One Seaport Plaza

199 Water Street

New York, NY 10038-3526

Attn: Maxine Verne, General Legal Counsel

Further, pursuant to any statute of any state, territory, or district of the United States that makes provision thereof, the Company hereby designates the Superintendent, Commissioner or Director of Insurance, or other officer specified for that purpose in the statute, or his successor or successors in office, as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Insured or any beneficiary hereunder arising out of this Contract of Insurance, and hereby designates the above-named as the person to whom the said officer is authorized to mail such process or a true copy thereof

# Contract Allocation Endorsement - SRU-CA

This Insurance is effected with certain insurance underwriters (hereinafter called the “Underwriters”). The following words shall be deemed to be synonymous: “Underwriters”, “Insurers”, and “Company”.

The liability by each “Underwriter” on this contract with the Insured is limited to the participation amount shown in the schedule below. The liability of each separate contract listed and for each “underwriter” represented thereby for any loss or losses or amounts payable is several as to each and shall not exceed its participation percentage shown below and there is no joint liability amounts payable is several as to each and shall not exceed its participation percentage shown below and there is no joint liability of any “Underwriters” pursuant to this contract. An “Underwriter” shall not have its liability hereunder increased or decreased by reason of failure or delay of another “underwriter”, its successors, assigns, or legal representatives. Any loss otherwise payable under the provisions of the attached policy that exceeds the allocation of “Risk” as defined herein shall be borne proportionately by the contracts as to their limit of liability at the time and place of the loss bears to the total allocated limits herein.

This contract shall be constructed as a separate contract between the insured and each of the “Underwriters”. This evidence of coverage consists of separate sections of a composite insurance for all Underwriter’s at Lloyds combined and separate policies issued by the insurance company(ies), all as identified below. This evidence of coverage does not constitute in any manner or form a joint certificate of coverage by Underwriters at Lloyd’s with any other insurance company(ies).

In Witness whereof, the following “Underwriters” execute and attest these presents, and subscribe for the amount of insurance provided.

The security is as noted below

Layer of Participation	Attachment Point	Perils	Contract #	Company Code	Policy # Certificate #	%	Participation	Category
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-1	Lloyd's	AQS-190557	21.4498%	2,144,975	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-2	Lloyd's	AQS-190557	3.4332%	343,315	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-3	Lloyd's	AQS-190557	0.1726%	17,255	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-4	Lloyd's	AQS-190557	0.8568%	85,680	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-5	Lloyd's	AQS-190557	3.8616%	386,155	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-6	Lloyd's	AQS-190557	4.2067%	420,665	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-7	Lloyd's	AQS-190557	0.9758%	97,580	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-8	Lloyd's	AQS-190557	1.2019%	120,190	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-9	Lloyd's	AQS-190557	1.7136%	171,360	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-10	Lloyd's	AQS-190557	2.5764%	257,635	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-11	Lloyd's	AQS-190557	2.1480%	214,795	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-12	Lloyd's	AQS-190557	1.7136%	171,360	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-13	Lloyd's	AQS-190557	2.1480%	214,795	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-14	Lloyd's	AQS-190557	2.5764%	257,635	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-15	Lloyd's	AQS-190557	0.8449%	84,490	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1637-16	Lloyd's	AQS-190557	0.1845%	18,445	
10,000,000	Deductible	AOP excl. NW, EQ, FL	B123019AWS1638	HDI	HAQS-190557	9.4367%	943,670	
10,000,000	Deductible	AOP excl. NW, EQ, FL		Scor	TR00093911900557	25.0000%	2,500,000	
10,000,000	Deductible	AOP excl. NW, EQ, FL		C&F	SRC-100428	6.5000%	650,000	
10,000,000	Deductible	AOP excl. NW, EQ, FL		WW	SCO0000282	6.5000%	650,000	
10,000,000	Deductible	AOP excl. NW, EQ, FL		SS	AMS-190557	2.5000%	250,000	
10,000,000	Deductible	NW	B123019AWS1637-1	Lloyd's	AQS-190557	21.4498%	2,144,975	
10,000,000	Deductible	NW	B123019AWS1637-2	Lloyd's	AQS-190557	3.4332%	343,315	
10,000,000	Deductible	NW	B123019AWS1637-3	Lloyd's	AQS-190557	0.1726%	17,255	
10,000,000	Deductible	NW	B123019AWS1637-4	Lloyd's	AQS-190557	0.8568%	85,680	
10,000,000	Deductible	NW	B123019AWS1637-5	Lloyd's	AQS-190557	3.8616%	386,155	
10,000,000	Deductible	NW	B123019AWS1637-6	Lloyd's	AQS-190557	4.2067%	420,665	
10,000,000	Deductible	NW	B123019AWS1637-7	Lloyd's	AQS-190557	0.9758%	97,580	
10,000,000	Deductible	NW	B123019AWS1637-8	Lloyd's	AQS-190557	1.2019%	120,190	
10,000,000	Deductible	NW	B123019AWS1637-9	Lloyd's	AQS-190557	1.7136%	171,360	
10,000,000	Deductible	NW	B123019AWS1637-10	Lloyd's	AQS-190557	2.5764%	257,635	
10,000,000	Deductible	NW	B123019AWS1637-11	Lloyd's	AQS-190557	2.1480%	214,795	
10,000,000	Deductible	NW	B123019AWS1637-12	Lloyd's	AQS-190557	1.7136%	171,360	
10,000,000	Deductible	NW	B123019AWS1637-13	Lloyd's	AQS-190557	2.1480%	214,795	
10,000,000	Deductible	NW	B123019AWS1637-14	Lloyd's	AQS-190557	2.5764%	257,635	
10,000,000	Deductible	NW	B123019AWS1637-15	Lloyd's	AQS-190557	0.8449%	84,490	
10,000,000	Deductible	NW	B123019AWS1637-16	Lloyd's	AQS-190557	0.1845%	18,445	
10,000,000	Deductible	NW	B123019AWS1638	HDI	HAQS-190557	9.4367%	943,670	
10,000,000	Deductible	NW		Scor	TR00093911900557	25.0000%	2,500,000	
10,000,000	Deductible	NW		C&F	SRC-100428	6.5000%	650,000	
10,000,000	Deductible	NW		WW	SCO0000282	6.5000%	650,000	
10,000,000	Deductible	NW		SS	AMS-190557	2.5000%	250,000	
10,000,000	Deductible	EQ	B123019AWS1637-1	Lloyd's	AQS-190557	21.4498%	2,144,975	
10,000,000	Deductible	EQ	B123019AWS1637-2	Lloyd's	AQS-190557	3.4332%	343,315	
10,000,000	Deductible	EQ	B123019AWS1637-3	Lloyd's	AQS-190557	0.1726%	17,255	
10,000,000	Deductible	EQ	B123019AWS1637-4	Lloyd's	AQS-190557	0.8568%	85,680	
10,000,000	Deductible	EQ	B123019AWS1637-5	Lloyd's	AQS-190557	3.8616%	386,155	
10,000,000	Deductible	EQ	B123019AWS1637-6	Lloyd's	AQS-190557	4.2067%	420,665	
10,000,000	Deductible	EQ	B123019AWS1637-7	Lloyd's	AQS-190557	0.9758%	97,580	
10,000,000	Deductible	EQ	B123019AWS1637-8	Lloyd's	AQS-190557	1.2019%	120,190	
10,000,000	Deductible	EQ	B123019AWS1637-9	Lloyd's	AQS-190557	1.7136%	171,360	
10,000,000	Deductible	EQ	B123019AWS1637-10	Lloyd's	AQS-190557	2.5764%	257,635	
10,000,000	Deductible	EQ	B123019AWS1637-11	Lloyd's	AQS-190557	2.1480%	214,795	
10,000,000	Deductible	EQ	B123019AWS1637-12	Lloyd's	AQS-190557	1.7136%	171,360	
10,000,000	Deductible	EQ	B123019AWS1637-13	Lloyd's	AQS-190557	2.1480%	214,795	



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10,000,000	Deductible	EQ	B123019AWS1637-14	Lloyd's	AQS-190557	2.5764%	257,635	
10,000,000	Deductible	EQ	B123019AWS1637-15	Lloyd's	AQS-190557	0.8449%	84,490	
10,000,000	Deductible	EQ	B123019AWS1637-16	Lloyd's	AQS-190557	0.1845%	18,445	
10,000,000	Deductible	EQ	B123019AWS1638	HDI	HAQS-190557	9.4367%	943,670	
10,000,000	Deductible	EQ		Scor	TR00093911900557	25.0000%	2,500,000	
10,000,000	Deductible	EQ		C&F	SRC-100428	6.5000%	650,000	
10,000,000	Deductible	EQ		WW	SCO0000282	6.5000%	650,000	
10,000,000	Deductible	EQ		SS	AMS-190557	2.5000%	250,000	
10,000,000	Deductible	FL	B123019AWS1637-1	Lloyd's	AQS-190557	21.4498%	2,144,975	
10,000,000	Deductible	FL	B123019AWS1637-2	Lloyd's	AQS-190557	3.4332%	343,315	
10,000,000	Deductible	FL	B123019AWS1637-3	Lloyd's	AQS-190557	0.1726%	17,255	
10,000,000	Deductible	FL	B123019AWS1637-4	Lloyd's	AQS-190557	0.8568%	85,680	
10,000,000	Deductible	FL	B123019AWS1637-5	Lloyd's	AQS-190557	3.8616%	386,155	
10,000,000	Deductible	FL	B123019AWS1637-6	Lloyd's	AQS-190557	4.2067%	420,665	
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10,000,000	Deductible	FL	B123019AWS1637-15	Lloyd's	AQS-190557	0.8449%	84,490	
10,000,000	Deductible	FL	B123019AWS1637-16	Lloyd's	AQS-190557	0.1845%	18,445	
10,000,000	Deductible	FL	B123019AWS1638	HDI	HAQS-190557	9.4367%	943,670	
10,000,000	Deductible	FL		Scor	TR00093911900557	25.0000%	2,500,000	
10,000,000	Deductible	FL		C&F	SRC-100428	6.5000%	650,000	
10,000,000	Deductible	FL		WW	SCO0000282	6.5000%	650,000	
10,000,000	Deductible	FL		SS	AMS-190557	2.5000%	250,000	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-1	Lloyd's	AQS-190558	21.4498%	7,641,138	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-2	Lloyd's	AQS-190558	3.4332%	1,223,006	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-3	Lloyd's	AQS-190558	0.1726%	61,468	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-4	Lloyd's	AQS-190558	0.8568%	305,222	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-5	Lloyd's	AQS-190558	3.8616%	1,375,617	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-6	Lloyd's	AQS-190558	4.2067%	1,498,553	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-7	Lloyd's	AQS-190558	0.9758%	347,613	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-8	Lloyd's	AQS-190558	1.2019%	428,158	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-9	Lloyd's	AQS-190558	1.7136%	610,443	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-10	Lloyd's	AQS-190558	2.5764%	917,784	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-11	Lloyd's	AQS-190558	2.1480%	765,174	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-12	Lloyd's	AQS-190558	1.7136%	610,443	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-13	Lloyd's	AQS-190558	2.1480%	765,174	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-14	Lloyd's	AQS-190558	2.5764%	917,784	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-15	Lloyd's	AQS-190558	0.8449%	300,982	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1637-16	Lloyd's	AQS-190558	0.1845%	65,707	
35,623,432	20,000,000	AOP excl. NW, EQ, FL	B123019AWS1638	HDI	HAQS-190558	9.4367%	3,361,676	
35,623,432	20,000,000	AOP excl. NW, EQ, FL		Scor	TR00093911900558	25.0000%	8,905,858	
35,623,432	20,000,000	AOP excl. NW, EQ, FL		C&F	SRC-100429	6.5000%	2,315,523	
35,623,432	20,000,000	AOP excl. NW, EQ, FL		WW	SCO0000283	6.5000%	2,315,523	
35,623,432	20,000,000	AOP excl. NW, EQ, FL		SS	AMS-190558	2.5000%	890,586	

**\*If the peril of NW - CYHD applies, it is understood that both the Layer of Participation and Attachment Point in the WDBB Category are subject to erosion per terms outlined in the Calendar Year Deductible Endorsement (SRU-058). The overlying Layer of Participation which sits above the WDBB is variable as the WDBB erodes. At inception, the limit is the overlying Layer of Participation less the WDBB Layer of Participation. As the WDBB Category erodes, the overlying limit in the Layer of Participation increases commensurately. The policy limit listed in the Layer of Participation is expressed as the maximum limit.**

**Perils are further defined in the primary policy language or as per applicable forms attached to this policy. Symbols used above are defined as follows:**

**Company Codes:**

Lloyds - Certain Underwriters at Lloyd's of London  
HDI - HDI Global Specialty SE  
Hannover - International Insurance Company of Hannover SE  
Scor - General Security Indemnity Company of Arizona  
Munich - The Princeton Excess and Surplus Lines Insurance Company (PESLIC)  
QBE - QBE Specialty Insurance Company, a North Dakota corporation  
C&F - Crum & Forster Specialty Insurance Company  
WW - Western World Insurance Company  
SS - Safety Specialty Insurance Company

**Perils:**

AOP- All Other Perils  
NW - Named Wind Storm  
W/H - Wind/Hail Only  
SS - Storm Surge  
DIC- Difference in Conditions  
EQ- Earthquake Only  
EM - Earth Movement Only  
EQ/EQSL- Earthquake Including Earthquake Sprinkler Leakage  
EM/EMSL - Earth Movement Including Earth Movement Sprinkler Leakage  
FL- flood only  
NW CYHD - Named Wind Storm (Calendar Year Hurricane Deductible)  
EBD - Equipment Breakdown





SPECIAL RISK UNDERWRITERS

## **AmWINS PROPERTY FORM**

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**PROPERTY DAMAGE COVERAGE SCHEDULE****A. Premium**

The premium shown herein is the premium for the Policy Term and based on the values submitted at inception. We will charge additional premium for values added after the inception date based on those values and the appropriate rates for the exposures added. We may return premium for values sold after the inception date based upon the appropriate rates for exposures sold.

A minimum earned premium of 35.00% or the percentage shown in CAT Minimum Earned Endorsement (SRU-004), if shown as applicable, applies.

**B. Policy Territory**

This policy covers loss or damage occurring in the 50 states of the United States of America and the District of Columbia.

**C. "Insured Location"**

The coverages under this policy apply to an "insured location" unless otherwise provided.

An "insured location" is a "location" within the Policy Territory and:

1. listed on the Schedule of Locations attached to this policy or listed on the latest schedule on file with us; or
2. covered under the terms and conditions of the Property Off-Premises coverage extension; or
3. covered under the terms and conditions of the Miscellaneous Unnamed Locations coverage extension; or
4. covered under the terms and conditions of the Newly Acquired Property coverage extension.

**D. Coinsurance**

<b>Building</b>	<b>NIL</b>
<b>Personal Property</b>	<b>NIL</b>
<b>Business Income</b>	<b>NIL</b>
<b>Rental Value</b>	<b>N/A</b>

**E. Limit of Liability**

We shall not be liable for more than US\$ See Dec. page in any one "occurrence" regardless of the number of "locations" or coverages involved.

**Sub-Limits of Liability**

The sub-limits of liability as specified under this provision, or any other part this policy or the endorsements attached hereto, are part of and not in addition to the Limit of Liability. These sub-limits do not increase the Limit of Liability or any other sub-limit. We shall not be liable for more than the sub-limit specified.

When a sub-limit is shown as "in the aggregate", our maximum limit of liability will not exceed such limit during the term of the policy.

When a sub-limit applies to property that sub-limit also applies to any "time element" coverage associated with that property.

When a sub-limit is shown as No Coverage, it means that no coverage is provided for that aspect of the policy to which that sub-limit applies.

Sub-limits of Liability:		All are per “occurrence” (unless shown as in the aggregate) and are part of, not in addition to, the Limit of Liability.	
	PROPERTY DAMAGE COVERAGE - Extensions of Coverage		
1.	Accounts Receivable	\$100,000	
2.	Debris Removal	\$100,000	
3.	Electronic Data Processing Equipment Breakdown	No Coverage	
4.	"Electronic Data Processing Media" Breakdown	No Coverage	
5.	Expediting Expenses	\$25,000	
6.	Fine Arts	\$10,000	
7.	Fire Department Service Charge	\$10,000	
8.	Limited Coverage for "Fungus", Wet Rot, Dry Rot and "Bacteria"	No Coverage	
9.	Miscellaneous Unnamed Locations	No Coverage	
10.	Newly Acquired Property	\$100,000	
11.	Ordinance or Law	I. Included	II. & III. \$2,500,000 (combined)
12.	Outdoor Property	No Coverage	
13.	Pollutant Clean Up and Removal	No Coverage	
14.	Preservation of Property	\$50,000	
15.	Professional Fees	\$50,000	
16.	Property Off-Premises	\$50,000	
17.	Property in Transit	\$100,000	
18.	Service Interruption	\$100,000	
19.	Valuable Papers and Records	\$100,000	
	Time Element Coverage		
1.	Business Income	Included	
2.	Extra Expense	Included	
3.	Leasehold Interest	\$50,000	
4.	Rental Value	\$50,000	

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	Time Element Coverage - Extensions of Coverage		
1.	Civil Authority	\$100,000	
2.	Contingent Business Income	No Coverage	
3.	Extended Period of Indemnity	180 days	
4.	Ingress or Egress	\$100,000	
5.	Newly Acquired Property	\$100,000	
6.	Service Interruption	\$100,000	
	Endorsement - Extensions of Coverage		
1.	Earthquake	\$10,000,000	In the annual aggregate
2.	Flood	\$10,000,000	In the annual aggregate

#### F. Deductibles

All losses, damages, or expenses arising out of a single "occurrence" shall be adjusted separately and we will be liable only if you sustain a loss in a single "occurrence" greater than the applicable deductible specified below.

1.	For each and every loss or damage to Covered Property to all "locations", except as specifically stated below or in endorsements attached to this policy.	\$50,000
2.	Named Storm - Layer I only	5% per Total Insurable Values per location reported on the Schedule of Values, subject to \$100,000 minimum per Occurrence
3.	Flood - Layer I only	\$100,000 per Occurrence
4.	Earthquake - Layer I only	\$100,000 per Occurrence
5.	Time Element	72 hours

#### **G. Application of Deductibles**

Except as may be more specifically otherwise stated in this policy, deductibles will be applied according to the following provisions. For the purposes of applying these provisions, "specific type of coverage" shall mean those coverage(s) under Property Damage Coverage or any Time Element coverage and "specific type of property" shall mean a type of property (building or personal property) or as more specifically described in a deductible.

1. Stated percentage deductibles, dollar deductibles, time exclusion or Average Daily Value deductibles which are related to a specific type of coverage or a specific type of property shall be deducted separately with respect to each such coverage or property. If two or more separate deductible amounts apply to the same specific type of coverage or to the same specific type of property, the total to be deducted shall be the largest applicable deductible amount.
2. Deductibles which are not designated as applying to a specific type of coverage or a specific type of property are combined deductibles and shall be deducted from the total loss from all applicable coverages.
3. Except as otherwise stated in the policy, if loss arising out of one "occurrence" is subject to any combination of deductibles, then the amount to be deducted shall be the larger of the deductible amounts as provided for in 1. above, or the largest applicable combined deductible.
4. The deductible amount(s) as determined above shall be deducted from the total loss you suffer arising out of one "occurrence" regardless of the number of "locations" involved, except as otherwise stated in the policy.
5. If a time deductible is designated, we will not be liable for any loss under that coverage that occurs during the specified time period immediately following the loss.
6. When the value of property insured is used in the calculation of a deductible, that value shall be determined according to the valuation provisions contained in this policy.

#### **H. Language**

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

## PROPERTY DAMAGE COVERAGE

### A. Coverage

We will pay for direct physical loss of or damage to Covered Property at an “insured location” caused by or resulting from any Covered Cause of Loss.

#### 1. Covered Property

Covered Property, as used in this policy, means the type of property described in this section, **A.1.**, and limited in **A.2.**, Property Not Covered.

**a.** Building, meaning a building or structure at an “insured location”, including:

- (1) Completed additions;
- (2) Fixtures, including outdoor fixtures;
- (3) Permanently installed:
  - a.** Machinery and
  - b.** Equipment;
- (4) Personal property owned by you that is used to maintain or service the building or structure or its premises, including:
  - a.** Fire extinguishing equipment;
  - b.** Outdoor furniture;
  - c.** Floor coverings; and
  - d.** Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;
- (5) If not covered by other insurance:
  - a.** Additions under construction, alterations and repairs to the building or structure;
  - b.** Materials, equipment, supplies and temporary structures, on or within 250 feet of an “insured location”, used for making additions, alterations or repairs to the building or structure.

**b.** Your Business Personal Property located in or on a building at an “insured location” or in the open (or in a vehicle) within 250 feet of an “insured location”, consisting of the following:

- (1) Furniture and fixtures;
- (2) Machinery and equipment;
- (3) “Stock”;
- (4) All other personal property owned by you and used in your business;
- (5) Labor, materials or services furnished or arranged by you on personal property of others;
- (6) Your use interest as a tenant in improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
  - a.** Made a part of the building or structure you occupy but do not own; and
  - b.** You acquired or made at your expense but cannot legally remove;
- (7) Leased personal property for which you have a contractual responsibility to insure, unless otherwise provided for under Personal Property of Others.



**c. Personal Property of Others that is:**

- (1)** In your care, custody or control; and
- (2)** Located in or on a building at an “insured location” or in the open (or in a vehicle) within 250 feet of an “insured location”.

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

**2. Property Not Covered**

Unless provided in B. Extensions of Coverages, or included in the Statement of Values for which a premium is charged, Covered Property does not include

- a.** Accounts, bills, currency, food stamps or other evidences of debt, “money”, notes or “securities” or any other documents having a negotiable or market value. Lottery tickets held for sale are not “securities”;
- b.** Animals;
- c.** Automobiles held for sale;
- d.** Bridges, roadways, walks, patios or other paved surfaces;
- e.** Contraband, or property in the course of illegal transportation or trade;
- f.** The cost of excavations, grading, backfilling or filling;
- g.** Foundations of buildings, structures, machinery or boilers if their foundations are below:
  - (1)** The lowest basement floor; or
  - (2)** The surface of the ground, if there is no basement;
- h.** Land (including land on which the property is located), water, growing crops or lawns;
- i.** Personal property while airborne or waterborne;
- j.** Bulkheads, pilings, piers, wharves or docks;
- k.** Property that is covered under any other policy in which it is more specifically described, except for the excess of the amount due (whether you can collect on it or not) from that other insurance;
- l.** Retaining walls that are not part of a building;
- m.** Underground pipes, flues or drains;
- n.** Valuable papers and records include but are not limited to proprietary information, books of account, deeds, manuscripts, abstracts, drawings and card index systems;
- o.** Vehicles or self-propelled machines (including aircraft or watercraft) that:
  - (1)** Are licensed for use on public roads; or
  - (2)** Are operated principally away from “insured locations”.

This paragraph does not apply to:

Vehicles or self-propelled machines or autos you manufacture, process or warehouse;

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

Rowboats or canoes out of water at “insured locations”; or Trailers.

**p. The following property while outside of buildings:**

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

- (2) Fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants (other than "stock" of trees, shrubs or plants).

## **B. Extensions of Coverage**

This policy includes the following extensions of coverage. These extensions of coverage will not increase the Limit of Liability of this policy and are subject to the applicable sub-limit and policy provisions, including applicable exclusions and deductibles.

### **1. Accounts Receivable**

This policy, subject to the following provisions, is extended to cover the following loss when such loss is caused by direct physical damage from Covered Cause of Loss to accounts receivable records at an "insured location".

#### **a. Type of Loss Covered**

- (1) All sums due you from customers, provided you are unable to effect collection thereof as the direct result of loss of or damage to records of accounts receivable;
- (2) Interest charges on any loan to offset impaired collections pending repayment of such sums made uncollectible by such loss or damage;
- (3) Collection expense in excess of "normal" collection cost and made necessary because of such loss or damage;
- (4) Other expenses, when reasonably incurred by you in re-establishing records of accounts receivable following such loss or damage.

#### **b. Additional Exclusions - This extension does not insure against loss:**

- (1) due to bookkeeping, accounting or billing errors or omissions;
- (2) which requires an audit of records or an inventory computation to prove its factual existence; but this shall not preclude the use of such procedures in support of claim for loss which you can prove, through evidence wholly apart therefrom, is due solely to a risk of loss to records of accounts receivable not otherwise excluded hereunder;
- (3) due to alteration, falsification, manipulation, concealment, destruction or disposal of records of accounts receivable committed to conceal the wrongful giving, taking, obtaining or withholding of money, securities or other property but only to the extent of such wrongful giving, taking, obtaining or withholding.

#### **c. Conditions**

- (1) We shall be permitted to inspect the premises and the receptacles in which the records of accounts receivable are kept by you, and to examine and audit your books and records at any time during the policy period and any extension thereof and within three (3) years after the final termination of this policy, as far as they relate to the premium bases or the subject matter of this extension, and to verify the statements of any outstanding record of accounts receivable submitted by you and the amount of recoveries of accounts receivable on which we have made any settlement.
- (2) After payment of loss, all amounts recovered by you on accounts receivable for which you have been indemnified shall belong and be paid to us by you up to the total amount of loss paid by us; but all recoveries in excess of such amounts shall belong to you.
- (3) When there is proof that a loss covered by this extension has occurred but you cannot accurately establish the total amount of accounts receivable outstanding as of the date of such loss, such amount shall be based on your monthly statements and shall be computed as follows:
  - a. determine the amount of all outstanding accounts receivable at the end of the same fiscal month in the year immediately preceding the year in which the loss occurs;

- b. calculate the percentage of increase or decrease in the average monthly total of accounts receivable for the twelve (12) months immediately preceding the month in which the loss occurs, or such part thereof for which you have furnished monthly statements to us, as compared with such average for the same months of the preceding year;
- c. the amount determined under **a.** above, increased or decreased by the percentage calculated under **b.** above, shall be the agreed total amount of accounts receivable as of the last day of the fiscal month in which said loss occurs;
- d. the amount determined under **c.** above shall be increased or decreased in conformity with the "normal" fluctuations in the amount of accounts receivable during the fiscal month involved, due consideration being given to the experience of the business since the last day of the last fiscal month for which statement has been rendered.

**d. Deductions**

There shall be deducted from the total amount of accounts receivable, however established, the amount of such accounts evidenced by records not lost or damaged, or otherwise established or collected by you, and an amount to allow for probable bad debts which would normally have been uncollectible by you. All unearned interest and service charges shall be deducted.

**2. Debris Removal**

- a. This policy is extended to cover your expense to remove debris of Covered Property at an "insured location" caused by or resulting from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- b. Debris Removal does not apply to costs to:
  - (1) Extract "pollutants" from land or water; or
  - (2) remove, restore or replace polluted land or water.

**3. Electronic Data Processing Equipment Breakdown**

This policy is extended to cover direct physical loss or damage to covered electronic data processing equipment and component parts thereof while at an "insured location" and owned, leased or rented by you, or under your control and used by you to process information at "insured locations"; and which is caused by:

- a. Mechanical breakdown or machinery breakdown;
- b. Short circuit, blowout, or other electrical damage to electrical equipment, apparatus or devices, including wiring.

**4. "Electronic Data Processing Media" Breakdown**

This policy is extended to cover insured direct physical loss or damage to "electronic data processing media" that is:

- a. at an "insured location";
- b. used in your operations to process and store information at an "insured location"; and
- c. caused by: Mechanical breakdown or machinery breakdown; short circuit, blowout, or other electrical damage to electrical equipment, apparatus, or devices, including wiring.

**5. Expediting Expense**

This policy is extended to cover, the reasonable and necessary extra costs of temporary repair of direct physical loss or damage by a Covered Cause of Loss to Covered Property at an "insured location" and the extra costs of expediting the permanent repairs or permanent replacement of such damaged property, whichever is less. In no event shall these expediting expenses include expenses recoverable elsewhere in this policy or the cost of permanent repair or replacement of the damaged property.

## **6. Fine Arts**

This policy is extended to cover direct physical loss of or damage to your "fine arts" and "fine arts" of others that are in your care, custody or control from any of the Covered Causes of Loss, provided that the "fine arts" are at an "insured location".

You agree that "fine arts" will be packed and unpacked by competent packers.

## **7. Fire Department Service Charge**

When the fire department is called to save or protect Covered Property at an "insured location" from a Covered Cause of Loss, we will pay for your liability for fire department service charges:

- a. Assumed by contract or agreement prior to loss; or
- b. Required by local ordinance.

## **8. Limited Coverage For "Fungus", Wet Rot, Dry Rot And "Bacteria"**

- a. This policy is extended to cover loss or damage to Covered Property directly caused by or resulting from "fungus", wet or dry rot, or "bacteria" if such "fungus", wet or dry rot, or "bacteria" is directly caused by or results from insured direct physical loss or damage.
- b. As applied to this limited coverage for loss or damage by "fungus", wet or dry rot, and "bacteria", "loss or damage" means:
  - (1) Direct physical loss or damages to Covered Property by "fungus", wet or dry rot or "bacteria", including the cost of removal of the "fungus", wet or dry rot or "bacteria";
  - (2) The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungus", wet or dry rot or "bacteria"; and
  - (3) The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is reason to believe that "fungus", wet or dry rot or "bacteria" are present.
- c. The sub-limit for this extension of coverage is an annual aggregate and applies regardless of the number or type of coverages that may apply, the number of "locations" to which this extension of coverage applies, or regardless of the number or type of "fungus", wet or dry rot, or "bacteria" that caused the loss or damage. With respect to a particular "occurrence" of loss which results in "fungus", wet or dry rot or "bacteria", we will not pay more than the sub-limit stated for this coverage in the PROPERTY DAMAGE COVERAGE SCHEDULE even if the "fungus", wet or dry rot or "bacteria" continues to be present or active, or recurs, in a later policy period.

## **9. Miscellaneous Unnamed Locations**

This policy is extended to cover your property, of the type we cover in this policy, which is at a "location" within the Policy Territory, in which you had an insurable interest prior to the inception date of this policy and which is:

- a. not on the Schedule of Locations attached to this policy or listed on the latest schedule on file with us; or
- b. listed on the Schedule of Locations attached to this policy or the latest schedule on file with us but for which you have not submitted values and
- c. not covered under any other extension of coverage under of this policy.

## **10. Newly Acquired Property**

- a. This policy is extended to apply to property that you acquire after the inception date of this policy provided that the property:
  - (1) is of the type we cover in this policy; and
  - (2) is at a "location" within the Policy Territory.
- b. No coverage is provided under this provision for property at fairs or exhibitions.

- c. Insurance under this Extension for each newly acquired "location" will end when any of the following first occurs:

- (1) 30 days expire after you acquire or begin to construct the property; or
- (2) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property.

## **11. Ordinance or Law**

- a. This policy is extended to provide the following coverage:

### **(1) Coverage For Loss To The Undamaged Portion Of The Building**

With respect to the building at an "insured location" that has sustained covered direct physical damage, we will pay for the loss in value of the undamaged portion of the building, subject to the same basis of recovery which applies to the damaged portion of such building, as a consequence of enforcement of an ordinance or law that requires demolition of undamaged parts of the same building. The amount paid shall not include any greater cost of repair, replacement, construction or reconstruction due to the enforcement of any law or ordinance;

### **(2) Demolition Cost Coverage**

With respect to the building at an "insured location" that has sustained covered direct physical damage, we will pay the cost to demolish the building and clear the site of undamaged parts of the same building, as a consequence of enforcement of an ordinance or law that requires demolition of such undamaged property.

Coinsurance does not apply to this coverage.

### **(3) Increased Cost Of Construction Coverage**

- a. With respect to the building at an "insured location" that has sustained covered direct physical damage, if the basis of recovery is "repair or replacement cost", we will pay the increased cost, excess of (2) above to:

- (1) Repair or reconstruct damaged portions of that building; and/or
- (2) Reconstruct or remodel undamaged portions of that building, whether or not demolition is required;

when the increased cost is a consequence of enforcement of the minimum requirements of the ordinance or law.

However:

- (3) This coverage applies only if the restored or remodeled property is intended for similar occupancy as the current property, unless such occupancy is not permitted by zoning or land use ordinance or law.
- (4) We will not pay for the increased cost of construction if the building is not repaired, reconstructed or remodeled.

- b. When a building is damaged or destroyed and coverage under this Increased Cost of Construction provision applies, coverage for the increased cost of construction also applies to repair or reconstruction of the following, subject to the same conditions stated in this Increased Cost of Construction provision:

- (1) The cost of excavations, grading, backfilling and filling;
- (2) Foundation of the building;
- (3) Pilings; and
- (4) Underground pipes, flues and drains.

The items listed in **b. (1)** through **b. (4)** above are deleted from Property Not Covered, but only with respect to the coverage described in this Increased Cost of Construction provision.

Coinsurance does not apply to this coverage.

**b.** The coverage in **a.** above applies only:

- (1)** if the ordinance or law regulates the demolition, construction or repair of buildings, or establishes zoning or land use requirements at the "insured location" and is in force at the time of loss.
- (2)** in response to the minimum requirements of the ordinance or law. Losses and costs incurred in complying with recommended actions or standards that exceed actual requirements are not covered under this policy.
- (3)** If the building sustains direct physical damage that is covered under this policy and such damage results in enforcement of the ordinance or law described above.

**c.** If the building sustains both direct physical damage that is covered under this policy and direct physical damage that is not covered under this policy, and the building damage in its entirety results in enforcement of the ordinance or law described in **b. (1)** above, we will not pay the full amount of loss otherwise payable under the terms of this Ordinance or Law provision. Instead, we will pay a proportion of such loss; meaning the proportion that the covered direct physical damage bears to the total direct physical damage.

However, if the covered direct physical damage, alone, would have resulted in enforcement of the ordinance or law described in **b. (1)** above, then we will pay the full amount of loss otherwise payable under the terms of this Ordinance or Law provision.

If the building sustains direct physical damage that is not covered, and such damage is the only subject of the ordinance or law, then there is no coverage under this extension of coverage even if the building has also sustained covered direct physical damage.

**d.** Under this policy we will not pay for loss due to any ordinance or law that:

- (1)** You were required to comply with before the loss, even if the building was undamaged; and
- (2)** You failed to comply with.

**e.** Subject to the Sub-Limit of Liability for this Ordinance or Law Provision:

- (1)** For the coverage provided in **a. (2)** above, we will not pay more than the amount you actually spend to demolish and clear the site of the "insured location".

- (2)** With respect to the coverage provided in **a. (3)** above:

**a.** We will not pay for the increased cost of construction:

- i.** Until the property is actually repaired or replaced, at the same or another premises; and
- ii.** Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

- b.** If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the increased cost of construction is the increased cost of construction at the same premises.

**f.** If a building, group of buildings or a "location" is subject to a sub-limit, then any coverage under this extension of coverage for that unit of insurance is part of, and not in addition to, that sub-limit.

**g.** We will not pay under this provision for:

- (1)** Enforcement of any ordinance or law which requires the demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungus", wet or dry rot or "bacteria"; or



- (2) The costs associated with the enforcement of any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungus", wet or dry rot or "bacteria".

## 12 Outdoor Property

- a. Provided that such property is at an "insured location" or within 250 feet of an "insured location", this policy is extended to cover your outdoor fences, radio and television antennas (including satellite dishes), signs (other than signs attached to buildings), trees, shrubs and plants (other than "stock" of trees, shrubs or plants), including debris removal expense.
- b. Property covered under this endorsement is subject to all applicable provisions of the Covered Causes of Loss and Exclusions section, as well as to the following exclusions:

We will not pay for loss or damage caused by or resulting from any of the following:

- (1) Dampness or dryness of atmosphere;
- (2) Changes in or extremes of temperature;
- (3) Rain, snow, ice or sleet; or
- (4) Any auto, motorized vehicle or motorized equipment.

## 13. Pollutant Clean Up And Removal

- a. This policy is extended to cover your expense to extract "pollutants" from land or water at an "insured location" if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.
- b. This extension does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.
- c. The sub-limit for this extension is the most we will pay for the sum of all covered expenses arising out of Covered Causes of Loss occurring during each separate 12 month period of this policy.

## 14. Preservation Of Property

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

- a. While it is being moved or while temporarily stored at another "location" provided that such property is within the Policy Territory; and
- b. Only if the loss or damage occurs within 30 days after the property is first moved.

## 15. Professional Fees

This policy is extended to cover expenses incurred by you or your representatives including auditors, accountants, appraisers, architects, engineers or other such professionals for producing and certifying particulars or details of your business required by us in order to arrive at the loss payable under this policy in event of a claim. However, no coverage shall apply to expenses incurred for the services of public adjusters or attorneys, insurance agents or brokers, or loss appraisers, nor for services of your employees unless agreed to by us prior to the use of their services.

## 16. Property Off-Premises

- a. You may extend the insurance provided by this policy to apply to your Covered Property while it is away from an "insured location", if it is within the Policy Territory and:
- (1) Temporarily at a "location" you do not own, lease or operate; or
- (2) At any fair, trade show or exhibition.

b. This extension does not apply to property:

- (1) In or on a vehicle; or
- (2) In the care, custody or control of your salespersons, unless the property is in such care, custody or control at a fair, trade show or exhibition.

**17. Property in Transit**

a. This policy is extended to cover your personal property, including your interest in and your liability for personal property of others while in your custody, while such property is in due course of transit within the United States.

b. This extension does not insure against loss or damage to:

- (1) the conveyance used as the mode of transportation (including any part of equipment thereof) or containers;
- (2) property insured under any marine import or export policy;
- (3) property shipped by mail or parcel post from the time it passes into the custody of the Postal Service;
- (4) property while waterborne except while on navigable inland waters of the United States;
- (5) samples of "merchandise" while in the care, custody or control of your salesmen or sales representatives.

c. This extension does not insure against loss:

- (1) with respect to vehicles operated by you, by theft from a vehicle while unattended unless the portion of the vehicle containing the insured property is of entirely closed construction and, at the time of loss, the doors of which shall have been securely locked and the windows of which shall have been firmly closed, and the loss is a direct result of forcible entry of which there shall be visible evidence;
- (2) due to any fraudulent, dishonest or criminal act or omission by you or a partner of yours; or by theft by any of your employees, while working or otherwise, or by any person to whom the property is entrusted, but this exclusion does not apply to property in the custody of a carrier for hire;
- (3) resulting from interruption of business, delay, loss of market or use, or indirect or consequential loss of any kind;
- (4) caused directly or indirectly by seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade.

d. Benefit to Bailee

This extension shall not inure directly or indirectly to the benefit of any carrier or other bailee.

e. As respects this extension, all subrogation provisions of this policy are superseded by the following:

- (1) Any act or agreement by you before or after loss whereby your rights to recover in whole or in part for loss to property against any carrier for hire, bailee, or other party liable therefore, is released, impaired or lost, shall render this insurance null and void, but our right to retain or recover the premium shall not be affected. You, however, may, without prejudice to this insurance, accept the ordinary limited liability form receipts or bills of lading issued by carriers for hire. We are not liable for any loss which you settle or compromise without our written consent.
- (2) Upon payment of any loss or advancement or loan of money concerning the same, you will, at our request and expense and through such counsel as we may designate, make claim upon and institute legal proceedings against any carrier, bailee or other parties believed to be liable for such loss, and will use all proper and reasonable means to recover the same.

f. General Average and Salvage



This extension covers general average and salvage charges on property covered by this extension while waterborne.

**g. Attachment of Liability**

Coverage provided by this extension attaches from the time the property leaves the initial point of shipment until same is delivered at destination. This insurance covers only such shipments, the transportation of which begins within the term of this policy, even though said transportation is not completed within such time and loss or damage may occur after the end of such time.

**h. Export and Import Shipments**

Coverage provided by this extension shall apply to export shipments only until 'on board' bills of lading are issued or coverage under ocean marine policy attaches. This extension shall also cover import shipments, but only after coverage on such shipments under ocean marine policies has ceased, or, if not insured under ocean marine policies, after discharge from overseas vessel.

**i. F.O.B. Shipments**

Coverage provided by this extension shall apply to your contingent interest in shipments of property sold F.O.B. (free on board) point of shipment or otherwise, provided that any loss recoverable under this extension to such property is not collectible from any other insurance.

**j. Fraudulent Bills of Lading**

Coverage provided by this extension shall also apply to loss of "merchandise" occasioned by the unintentional acceptance of fraudulent bills of lading, shipping or messenger receipts.

**k. Backhaul Exclusion**

This extension does not insure against loss or damage to personal property of others while in your custody if such property is being transported by you in or on vehicles owned, operated, leased or otherwise contracted by you when you are acting as a common or contract carrier.

**18. Service Interruption**

- a.** This policy is extended to pay for loss of or damage to Covered Property at an "insured location", caused by an interruption in utility service to an "insured location". The interruption in utility service must result from direct physical loss or damage by a Covered Cause of Loss to "utility services" located off an "insured location".
- b.** Coverage under this extension for loss or damage to Covered Property does not apply to loss or damage to "electronic data" or "electronic computer programs", including destruction or corruption of "electronic data" or "electronic computer programs".

**19. Valuable Papers And Records (Other Than "Electronic Data")**

- a.** Coverage for Your Business Personal Property under this policy is extended to apply to the cost to replace or restore the lost information on valuable papers and records for which duplicates do not exist. But this extension does not apply to valuable papers and records which exist as "electronic data" or "electronic computer programs".
- b.** Under this extension we will also pay for the cost of blank material for reproducing the records (whether or not duplicates exist), and (when there is a duplicate) for the cost of labor to transcribe or copy the records.

## TIME ELEMENT COVERAGE

### A. Coverage

This policy includes the following coverage. The coverage will not increase the Limit of Liability of this policy and is subject to the applicable sub-limit and the policy provisions, including applicable exclusions and deductibles.

#### 1. Business Income

- a. We will pay for your actual loss sustained of "business income" due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical loss of or damage to Covered Property at an "insured location". The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, "insured location" includes the area within 250 feet of the "insured location".
- b. With respect to the requirements set forth in the preceding paragraph, if you occupy only a part of a site an "insured location" means:
  - (1) The portion of the building which you rent, lease or occupy; and
  - (2) Any area within the building or on the site, if that area services, or is used to gain access to, the "insured location".

#### 2. Extra Expense

- a. We will pay "extra expense" (other than the expense to repair or replace property) to:
  - (1) Avoid or minimize the "suspension" of business and to continue operations at an "insured location" or at replacement premises or temporary "locations", including relocation expenses and costs to equip and operate the replacement "location" or temporary "location";
  - (2) Minimize the "suspension" of business if you cannot continue "operations" following direct, physical loss or damage to Covered Property at an "insured location" that is caused by or results from a Covered Cause of Loss.
- b. We will also pay "extra expense" to repair or replace property, but only to the extent it reduces the amount of loss that otherwise would have been payable under this policy.

#### 3. Leasehold Interest

- a. This policy covers the following expenses if directly caused by insured direct physical loss or damage to covered buildings from a Covered Cause of Loss if the building is leased by you and located at an "insured location":
  - (1) The actual rent which remains payable for the unexpired term of the "lease" if such property becomes wholly untenable or unusable and the lease agreement requires continuation of the rent payment; or
  - (2) The proportion of the actual rent which remains payable for the unexpired term of the "lease" if such property becomes partially untenable or unusable and the lease agreement requires continuation of the rent payment; or
  - (3) The "leasehold interest" for the first three (3) months following loss or damage and the "net leasehold interest" for the remaining unexpired term of the lease if the lease is canceled by the lessor pursuant to the lease agreement or by the operation of law.
- b. This coverage does not insure against any loss or expense resulting from:
  - (1) The suspension, lapse, or cancellation of any license; or
  - (2) Your exercising an option to cancel the "lease"; or
  - (3) Any act or omission by you which constitutes a default under the "lease".
- c. It is a condition of this coverage that you shall use any suitable property or service owned or controlled by you or obtainable from another source to reduce the amount of loss hereunder.

- d. This policy does not provide this coverage for more than the number of consecutive days shown in the Sub-Limits of Liability section of the PROPERTY DAMAGE COVERAGE SCHEDULE, nor more than the dollar limit of liability shown in the same section.

#### **4. Rental Value**

We will pay for the actual loss of "rental value" you sustain due to the necessary "suspension" of your "operations" during the "period of restoration" caused by direct physical loss of or damage to Covered Property at an "insured location". The loss or damage must be caused by or result from Covered Cause of Loss.

### **B. Time Element Extensions of Coverage**

This policy includes the following extensions of coverage. These extensions of coverage will not increase the Limit of Liability of this policy and are subject to the applicable sub-limit and policy provisions, including applicable exclusions and deductibles.

#### **1. Civil Authority**

This policy is extended to cover, for up to the greater of fourteen (14) days or the number of days stated in the Sub-Limit of Liability section of the PROPERTY DAMAGE COVERAGE SCHEDULE, the actual loss of "business income" you sustain and necessary "extra expense" caused by action of civil authority that prohibits access to an "insured location" due to direct physical loss of or damage to property of the type covered, within one statute mile of that "insured location", caused by or resulting from any Covered Cause of Loss.

#### **2. Contingent Business Income**

This policy is extended to cover the actual loss of "business income" you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical loss of or damage to "contingent property" located within the Policy Territory caused by or resulting from a Covered Cause of Loss.

#### **3. Extended Period of Indemnity**

If the necessary "suspension" of your "operations" produces a loss payable under Business Income or Rental Value coverage, this policy is extended to pay for the actual loss of "business income" or "rental value" you incur during the period that:

- a. Begins on the date property (except "finished stock") is actually repaired, rebuilt or replaced and "operations" are resumed; and
- b. Ends on the earlier of:
  - (1) The date you could restore your "operations" or tenant occupancy, with reasonable speed, to the level which would generate the "business income" or "rental value" amount that would have existed if no direct physical loss or damage had occurred; or
  - (2) 30 consecutive days after the date determined in a. above.

This extension does not apply to loss of "business income" or "rental value" incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area of the "insured location".

Loss of "business income" or "rental value" must be caused by direct physical loss or damage at an "insured location" caused by or resulting from any Covered Cause of Loss.

#### **4. Ingress or Egress**

This policy is extended to cover, for up to the greater of fourteen (14) days or the number of days stated in the Sub-Limit of Liability section of the PROPERTY DAMAGE COVERAGE SCHEDULE, the actual loss of "business income" you sustain due to the necessary "suspension" of your "operations" during the period of time when, as a direct result of direct physical damage caused by a Covered Cause of Loss to property of the type covered at an "insured location" or within one statute mile of an "insured location", ingress to or egress from an "insured location" is thereby physically prevented.

**5. Newly Acquired Property**

- a. Your Business Income and Extra Expense Coverages are extended to apply to property at any "location" within the Policy Territory that you acquire other than fairs or exhibitions.
- b. Insurance under this Extension for each newly acquired "location" will end when any of the following first occurs:
  - (1) This policy expires;
  - (2) 30 days expire after you acquire or begin to construct the property; or
  - (3) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property.

**6. Service Interruption**

- a. Your Business Income and Extra Expense coverage are extended to apply to a "suspension" of "operations" at an "insured location" caused by an interruption in utility service to that "insured location". The interruption in utility service must result from direct physical loss or damage by a Covered Cause of Loss to "utility services" located off the "insured location" but within 1,500 feet of that "insured location".
- b. Coverage under this extension for loss or damage to Covered Property does not apply to loss or damage to "electronic data" or "electronic computer programs", including destruction or corruption of "electronic data" or "electronic computer programs".

**C. Time Element Conditions**

The following conditions apply to any "time element" coverage that may be included in this policy.

**1. Identity of Interests**

If you are comprised of more than one legal entity, liability shall not exceed the amount of loss had all interests comprised a single legal entity.

**2. Resumption of Operations**

It is a condition of this insurance that if you could reduce "time element" loss:

- a. by complete or partial resumption of operation of business, whether at the damaged premises or elsewhere; or
- b. by making use of any "stock" at your "location(s)", or elsewhere; or
- c. by making use of any other available source of materials or services; or
- d. by making use of any other available outlet for product(s) or service(s);

such reduction shall be taken into account in arriving at the amount of loss.

If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

If Extra Expense coverage is provided, you shall resume "normal" operation of the business and dispense with "extra expense" as soon as practicable.

**3. Property in the Course of Construction**

The amount of "time element" loss resulting from physical damage to Covered Property in the course of construction which delays your commencement of "operations" shall be calculated by applying the length of time, determined as otherwise provided herein, to the level of "operations" or production that would have been reasonably achieved after construction and start-up would have been completed had no physical damage occurred.

**4. Experience of the Business**

The amount of "time element" loss as insured against by this policy shall be determined based on:

- a. experience of the business before the loss;
- b. the probable experience thereafter had no loss occurred; Such probable experience shall not include any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses;
- c. The operating expenses, including payroll expenses, necessary to resume "operations" with the same quality of service that existed just before the direct physical loss or damage; and
- d. Other relevant sources of information, including:
  - (1) Your financial records and accounting procedures;
  - (2) Bills, invoices and other vouchers; and
  - (3) Deeds, liens or contracts.

If Extra Expense coverage is provided by this policy, such loss shall be determined based on:

- a. All expenses that exceed the "normal" operating expenses that would have been incurred by "operations" during the "period of restoration" if no direct physical loss or damage had occurred. We will deduct from the total of such expenses:
  - (1) The salvage value that remains of any property bought for temporary use during the "period of restoration", once "operations" are resumed; and
  - (2) Any "extra expense" that is paid for by other insurance, except for insurance that is written subject to the same plan, terms, conditions and provisions as this insurance; and
- b. Necessary expenses that reduce the loss under the Business Income coverage part that otherwise would have been incurred.

## 5. Time Element Exclusions

Except as provided in the Time Element Extension of Coverage, we will not pay for "time element" coverage for:

- a. Any loss caused directly or indirectly by the failure of power or other utility service supplied to an "insured location", however caused, if the failure occurs outside of a covered building. Failure includes lack of sufficient capacity and reduction in supply.

But if the failure of power or other utility service results in a Covered Cause of Loss, we will pay for the loss resulting from that Covered Cause of Loss.

- b. Any loss caused by or resulting from:
  - (1) Damage or destruction of "finished stock"; or
  - (2) The time required to reproduce "finished stock".

This exclusion does not apply to Extra Expense coverage.

- c. Any loss caused by or resulting from direct physical loss or damage to radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers.
- d. Any increase of loss caused by or resulting from:
  - (1) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or
  - (2) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the "suspension" of "operations", we will cover such loss that affects your "business income" during the "period of restoration" and any extension of the "period of restoration" in accordance with the terms of the Extended Period of Indemnity extension of coverage.

- e. Any "extra expense" caused by or resulting from suspension, lapse or cancellation of any license, lease or contract beyond the "period of restoration".
- f. Loss for any period during which business would not or could not have been conducted for any reason other than direct physical damage of the type insured against.
- g. Any other consequential loss.

## **COVERED CAUSES OF LOSS AND EXCLUSIONS**

### **A. Covered Causes of Loss**

Risks Of Direct Physical Loss unless the loss is:

- 1. Excluded in Section **B.**, Exclusions; or
- 2. Limited in Section **C.**, Limitations.

### **B. Exclusions**

- 1. **Except as may be provided as an extension of coverage**, we will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

#### **a. Ordinance or Law**

The enforcement of any ordinance or law:

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

This exclusion, Ordinance or Law, applies whether the loss results from:

- (1) An ordinance or law that is enforced even if the property has not been damaged; or
- (2) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

#### **b. Earth Movement**

- (1) all earth movement (whether occurring naturally or not) including, but not limited to, earthquake, landslide, subsidence and volcanic eruption.
- (2) collapse, cracking, shrinking, bulging, expansion, shifting, rising, settling, sinking, lateral or other movement, or other kinds of loss or damage to property which would not have occurred but for an event as described in (1) above.

If fire is Covered Cause of Loss, this exclusion shall not apply to loss or damage from fire resulting from (1) through (3) above.

If explosion is Covered Cause of Loss, this exclusion shall not apply to loss or damage from explosion resulting from (1) through (3) above.

#### **c. Governmental Action**

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this Policy.

**d. Nuclear, Chemical and Biological**

- (1) Nuclear detonation, reaction, nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing, 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 physical loss or damage insured against by this policy, however such nuclear detonation, reaction, nuclear radiation or radioactive contamination may have been caused. This exclusion replaces any other nuclear detonation, nuclear reaction, nuclear radiation or radioactive contamination exclusions found elsewhere in this policy.
- (2) The dispersal, application or release of, or exposure to, chemical or biological materials or agents that are harmful to property or human health, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing, 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 physical loss or damage insured against by this policy, however such dispersal, application, release or exposure may have been caused.

**e. Utility Services**

The failure of power or other utility service supplied to an "insured location", however caused, if the failure occurs away from the "insured location". Failure includes lack of sufficient capacity and reduction in supply.

But if the failure of power or other utility service results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

**f. War and Military Action**

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**g. Flood**

(1) Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);

(2) Mudslide or mudflow;

(3) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;

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

- a. Foundations, walls, floors or paved surfaces;
- b. Basements, whether paved or not; or
- c. Doors, windows or other openings; or

(5) Waterborne material carried or otherwise moved by any of the water referred to in Paragraph 1., 3. or 4., or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs 1. through 5., is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in Paragraphs 1. through 5., results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage (if sprinkler leakage is a Covered Cause of Loss).



**2. "Fungus", Wet Rot, Dry Rot And "Bacteria"**

This policy does not cover:

- a. "Fungus", wet or dry rot, or "bacteria";
- b. Loss or damage caused directly or indirectly by "fungus", wet or dry rot, or "bacteria";
- c. The costs associated with the enforcement of any ordinance or law which requires you or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of "fungus", wet or dry rot, or "bacteria".

This exclusion applies whether or not the loss event results in widespread damage or affects a substantial area.

**3. We will not pay for loss or damage caused by or resulting from any of the following:**

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

But if artificially generated electrical current results in fire, we will pay for the loss or damage caused by that fire.

- b. Delay, loss of use or loss of market.
- c. Smoke, vapor or gas from agricultural smudging or industrial operations.
- d. (1) Wear and tear;  
(2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;  
(3) Smog;  
(4) Settling, cracking, shrinking or expansion;  
(5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals;  
(6) Mechanical breakdown, including rupture or bursting caused by centrifugal force. But if mechanical breakdown results in elevator collision, we will pay for the loss or damage caused by that elevator collision;  
(7) The following causes of loss to personal property:
  - (a) Dampness or dryness of atmosphere;
  - (b) Changes in or extremes of temperature; or
  - (c) Marring or scratching.

But if an excluded cause of loss that is listed in **3.d.(1)** through **(7)** results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

- e. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
- f. Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.
- g. Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:



(1) You do your best to maintain heat in the building or structure; or

(2) You drain the equipment and shut off the supply if the heat is not maintained.

h. Dishonest or criminal act by you, any of your partners, members, officers, managers, employees (including leased employees), directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:

(1) Acting alone or in collusion with others; or

(2) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees (including leased employees); but theft by employees (including leased employees) is not covered.

i. Voluntary parting with any property by you or anyone else to whom you have entrusted the property, if induced to do so by any fraudulent scheme, trick, device or false pretense.

j. Rain, snow, ice or sleet to personal property in the open.

k. Collapse. But if collapse results in a Covered Cause of Loss at an "insured location", we will pay for the loss or damage caused by that Covered Cause of Loss.

l. Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

4. We will not pay for loss or damage caused by or resulting from any of the following, **4.a.** through **4.c.** But if an excluded cause of loss that is listed in **4.a.** through **4.c.** results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

a. Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph **1.** or **2.** above to produce the loss or damage.

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 an "insured location".

## 5. Electronic Exclusion

This policy does not insure against loss or damage to, or any cost, claim or expense directly or indirectly arising out of or relating to, any of the following, regardless of any other cause or event contributing concurrently or in any other sequence to the loss, damage, claim or expense:

a. "data", "electronic data", "programs", or "electronic computer programs",

b. failure of, interruption of, loss of use of, loss of access to, or reduction or alteration in the accuracy, functionality, availability, or operation of "data", "electronic data", "programs", or "electronic computer programs",

c. any instruction, including but not limited to any "computer virus", introduced into, or caused to act upon "computer operations",

d. errors in configuring "computer operations",

e. failure of, interruption of, loss of use of, loss of access to, or reduction or alteration in the accuracy, functionality, availability, or operation of "computer operations".

Notwithstanding anything in the above to the contrary, and subject to the other terms and conditions of this policy not in conflict herewith, this policy insures against direct physical loss or damage caused by a Covered Cause of Loss to insured computer hardware and "electronic data processing media".

**6. Pollution Exclusion**

This policy does not cover any of the following:

- a. Loss or damage caused by, resulting from, contributed to or made worse by actual, alleged or threatened release, discharge, escape or dispersal of "pollutants", however caused;
- b. The expense or cost to extract or remove "pollutants" from debris;
- c. The expense or cost to extract or remove "pollutants" from land or water;
- d. The expense or cost to extract or remove, restore or replace contaminated or polluted land or water;
- e. The costs associated with the enforcement or any ordinance or law which requires you or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of "pollutants";
- f. Any cost to transport any property or debris to a site for storage or decontamination required because the property is infected by "pollutants", whether or not such removal, transport or decontamination is required by law, regulation or any authority governing such matters;
- g. Any cost to store or otherwise dispose of any property because "pollutants" infect the property; or
- h. Any expense for the investigation or defense of any loss, damage or any cost, loss of use expense, fine or penalty or for any expense or claim or suit related to any of the above.

**7. Materials Exclusion**

This policy does not cover loss or damage caused directly or indirectly by any of the following:

- a. Removal of asbestos, dioxin, and polychlorinated biphenols from any goods, products, structures or debris;
- b. Demolition, increased cost of reconstruction, repair, debris removal or loss of use necessitated by the enforcement of any law or ordinance regulating such asbestos, dioxin, and polychlorinated biphenols;
- c. Any governmental direction or request declaring that such asbestos, dioxin, and polychlorinated biphenols present in or part of or utilized in any undamaged portion of your property can no longer be used for the purpose for which it was intended or installed and must be removed or modified; or
- d. Any expense for the investigation or defense of any loss, damage or any cost, loss of use expense, fine or penalty or for any expense or claim or suit related to any of the above.

**8. Fines or Penalties**

This policy will not pay any costs, expenses, fines or penalties incurred or sustained by or imposed on you at the order of any government agency, court or other authority arising from any cause whatsoever.

**9. Mysterious Disappearance**

Loss disclosed in taking inventory, unless the loss results from physical loss or damage not excluded in this policy

**C. Limitations**

The following limitations apply to the policy and all endorsements, unless otherwise stated.

1. We will not pay for loss of or damage to property, as described and limited in this section. In addition, we will not pay for any loss that is a consequence of loss or damage as described and limited in this section.
  - a. Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

- b.** Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.
  - c.** The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
    - (1)** The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or
    - (2)** The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.
  - d.** Building materials and supplies not attached as part of the building or structure, caused by or resulting from theft.

However, this limitation does not apply to:

    - (1)** Building materials and supplies held for sale by you, unless they are insured under a Builders Risk Coverage Form; or
    - (2)** Business Income coverage or Extra Expense coverage.
  - e.** Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property.
  - f.** Property that has been transferred to a person or to a place outside the "insured location" on the basis of unauthorized instructions.
- 2.** We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:
  - a.** Animals, and then only if they are killed or their destruction is made necessary.
  - b.** Fragile articles such as statuary, marbles, chinaware and porcelains, if broken. This restriction does not apply to:
    - (1)** Glass; or
    - (2)** Containers of property held for sale.
  - c.** Builders' machinery, tools and equipment owned by you or entrusted to you, provided such property is Covered Property.

However, this limitation does not apply:

    - (1)** If the property is located on or within 250 feet of the described premises, unless the premises is insured under the Builders Risk Coverage Form; or
    - (2)** To Business Income coverage or to Extra Expense coverage.
- 3.** The special limit shown for each category, **a.** through **d.**, is the total limit for loss of or damage to all property in that category. The special limit applies to any one "occurrence" of theft, regardless of the types or number of articles that are lost or damaged in that "occurrence". The special limits are:
  - a.** \$2,500 for furs, fur garments and garments trimmed with fur.
  - b.** \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
  - c.** \$2,500 for patterns, dies, molds and forms.
  - d.** \$250 for stamps, tickets, including lottery tickets held for sale, and letters of credit.

These special limits are part of, not in addition to, the Limit of Insurance applicable to the Covered Property.

4. We will not pay the cost to repair any defect to a system or appliance from which water, other liquid, powder or molten material escapes. But we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:
  - a. Results in discharge of any substance from an automatic fire protection system; or
  - b. Is directly caused by freezing.

### **GENERAL CONDITIONS**

#### **A. Cancellation Common Policy Condition**

1. The first Named Insured shown in the DECLARATIONS may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least
  - a. 90 days before the effective date of cancellation for any reason; or
  - b. 10 days before the effective date of cancellation for nonpayment of premium.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is canceled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

#### **B. Other Common Policy Conditions**

##### **1. Changes**

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

##### **2. Examination of Your Books and Records**

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

##### **3. Inspections and Surveys**

- a. We have the right to:
  - (1) Make inspections and surveys at any time;
  - (2) Give you reports on the conditions we find; and
  - (3) Recommend changes.
- b. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
  - (1) Are safe or healthful; or
  - (2) Comply with laws, regulations, codes or standards.
- c. Paragraphs **a.** and **b.** of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

#### **4. Premiums**

The first Named Insured shown in the DECLARATIONS:

- a. Is responsible for the payment of all premiums; and
- b. Will be the payee for any return premiums we pay.

#### **5. Transfer of Your Rights and Duties under This Policy**

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

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

### **C. Loss Conditions**

#### **1. Abandonment**

There can be no abandonment of any property to us.

#### **2. Appraisal**

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

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

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

#### **3. Duties In The Event Of Loss or Damage**

- a. You must see that the following are done in the event of loss or damage to Covered Property:
  - (1) Notify the police if a law may have been broken.
  - (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
  - (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
  - (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
  - (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
  - (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
  - (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request.
  - (8) Cooperate with us in the investigation or settlement of the claim.

(9) If you intend to continue your business, you must resume all or part of your "operations" as quickly as possible.

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

#### **4. Insurance under Two or More Coverages**

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

#### **5. Loss Payment**

- a. In the event of loss or damage covered by this policy, at our option, we will either:

- (1) Pay the value of lost or damaged property;
- (2) Pay the cost of repairing or replacing the lost or damaged property, subject to **b.** below;
- (3) Take all or any part of the property at an agreed or appraised value; or
- (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to **b.** below.

We will determine the value of lost or damaged property, or the cost of its repair or replacement, in accordance with the applicable terms of the Valuation Condition in this policy or any applicable provision which amends or supersedes the Valuation Condition.

- b. The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.
- c. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- d. We will not pay you more than your financial interest in the Covered Property.
- e. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, if you have complied with all of the terms of this policy and:
  - (1) We have reached agreement with you on the amount of loss; or
  - (2) An appraisal award has been made.

#### **6. Other Insurance**

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

## **7. Underlying Insurance**

Permission is granted to you to purchase insurance on all or any part of the deductibles of this policy and the existence of such underlying insurance shall not prejudice any recovery otherwise payable under this policy.

## **8. Excess Insurance**

Excess insurance is insurance over the limit of liability set forth in this Policy. The existence of such excess insurance shall not prejudice the coverage provided under this Policy nor will it reduce any liability hereunder.

## **9. Salvage and Recovery**

When, in connection with any loss hereunder, any salvage or recovery is received subsequent to the payment of such loss, the loss shall be figured on the basis on which it would have been settled had the amount of salvage or recovery been known at the time the loss was originally determined. Any amount thus found to be due either party from the other shall be paid promptly.

The expense of all proceedings necessary to such recoveries shall be apportioned between the interests concerned in the ratio of their respective recoveries as finally settled. If there should be no recovery and proceedings are conducted solely by us, we will pay the expense of the proceeding.

## **10. Recovered Property**

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

## **11. Vacancy**

### **a. Description of Terms**

(1) As used in this Vacancy Condition, the term building has the meanings set forth in (1)(a) and (1)(b) below:

(a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant.

(b) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is "vacant" or "unoccupied" when 70% or more of its total square footage is "vacant" or "unoccupied".

(2) Buildings under construction or renovation are not considered "vacant" or "unoccupied".

### **b. Vacancy Provisions**

We will not pay for any loss or damage if the building where loss or damage occurs has been "vacant" or "unoccupied" for more than:

(1) 30 consecutive days before that loss or damage if caused by Vandalism (if it is a Covered Cause of Loss); or

(2) 60 consecutive days before that loss or damage if caused by any other Covered Cause of Loss;

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

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

## **12. Valuation**

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

a. At the "repair or replacement cost" as of the time of loss or damage, except as provided in b., c., d. and e. below.



- b. "Stock" you have sold but not delivered at the selling price less discounts and expenses you otherwise would have had.
  - c. Glass at the cost of replacement with safety glazing material if required by law.
  - d. Tenant's Improvements and Betterments at:
    - (1) Actual cash value of the lost or damaged property if you make repairs promptly.
    - (2) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
      - (a) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
      - (b) Divide the amount determined in (a) above by the number of days from the installation of improvements to the expiration of the lease.

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

  - (3) Nothing if others pay for repairs or replacement.
- e. "Electronic data processing media": the cost of the blank "electronic data processing media" plus the cost of copying the "electronic data" or "electronic computer programs" from back-up or from originals of the previous generation, even though "electronic data" and "electronic computer programs" are not covered by this policy. These costs will not include research and engineering or any costs of restoring, gathering, assembling or recreating such "electronic data" or "electronic computer programs". Nor does this policy insure any amount pertaining to the value of such "electronic data" or "electronic computer programs" to you or any other party, even if such "electronic data" or "electronic computer programs" cannot be restored, recreated, gathered or assembled.

In no event shall the value include any additional cost directly or indirectly associated with the enforcement of any law or ordinance regulating the storage, processing, collection, transmission, recording, management, privacy or protection of "media", "electronic data processing media", "data", "electronic data", "programs" or "electronic computer programs".

If the "electronic data processing media" is not repaired, replaced or restored, the basis of valuation shall be the cost of the blank "electronic data processing media".
- f. "fine arts" the least of the following amounts:
  - (1) The actual cash value of that property;
  - (2) The cost of reasonably restoring that property to its condition immediately before loss or damage; or
  - (3) The cost of replacing that property with substantially identical property.

In the event of loss or damage, the value of property will be determined as of the time of loss or damage.
- g. Property in transit: the amount of invoice, including prepaid or advanced freight, if any, your profit or commission as selling agent, and such other costs and charges as may have accrued and become legally due thereon since shipment. In the absence of an invoice, the property shall be valued at its actual cash value at point of shipment.

#### **D. Additional Conditions**

##### **1. Coinsurance**

If a Coinsurance percentage is shown for Building, Personal Property, Business Income or Rental Value coverage in the PROPERTY DAMAGE COVERAGE SCHEDULE, the following condition applies to that particular property or coverage.



We will not pay the full amount of any loss if the value at the time of loss times the Coinsurance percentage shown in the PROPERTY DAMAGE COVERAGE SCHEDULE for the applicable property or coverage is greater than the last reported value prior to the loss to that property or for that particular coverage.

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

- (1) Multiply the value for the particular property or coverage at the time of loss by the Coinsurance percentage;
- (2) Divide the last reported value prior to the loss for that coverage or property by the figure determined in step (1);
- (3) Multiply the total amount of loss, before the application of any deductible, by the figure determined in step (2); and
- (4) Subtract the deductible from the figure determined in step (3).

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

For the purposes of the application of this provision, value shall mean:

For Building, Personal Property or Property Damage: the value of Covered Property.

For Business Income: the "business income" that would have been earned or incurred (had no loss occurred) by your "operations" at the "insured location" and all other "locations" where "business income" loss ensues for the 12 months following the inception, or last previous anniversary date, of this policy (whichever is later).

For Rental Value: "rental value" that would have been earned or incurred (had no loss occurred) by your "operations" at the "insured location" for the 12 months following the inception, or last previous anniversary date, of this policy (whichever is later).

## **2. Concealment, Misrepresentation or Fraud**

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

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

## **3. Control of Property**

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

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

## **4. Knowledge or Control**

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

## **5. Legal Action against Us**

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

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

## **6. Mortgageholders**

- a. The term mortgageholder includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each Mortgageholder shown in the Schedule in their order of precedence, as interests may appear.
- c. The Mortgageholder has the right to receive loss payment even if the Mortgageholder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the Mortgageholder will still have the right to receive loss payment if the Mortgageholder:
  - (1) Pays any premium due under this policy at our request if you have failed to do so;
  - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
  - (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the Mortgageholder.

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

- e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this policy:
    - (1) The Mortgage holder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
    - (2) The Mortgage holder's right to recover the full amount of the Mortgage holder's claim will not be impaired.
- At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.
- f. If we cancel this policy, we will give written notice to the Mortgageholder at least 10 days before the effective date of cancellation.
  - g. If we elect not to renew this policy, we will give written notice to the Mortgageholder at least 10 days before the expiration date of this policy.

## **7. No Benefit to Bailee**

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

## **8. Policy Period, Coverage Territory**

Under this policy:

- a. We cover loss or damage commencing:
  - (1) During the policy period shown in the DECLARATIONS; and
  - (2) Within the coverage territory.

## **9. Transfer of Rights of Recovery against Others to Us**

If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

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

- (2) A business firm:
  - (a) Owned or controlled by you; or
  - (b) That owns or controls you; or
- (3) Your tenant.

This will not restrict your insurance.

#### 10. Conformity with Statute

Terms of this policy, which are in conflict with the statutes of the state wherein this policy is issued, are hereby amended to conform to such statutes.

#### E. Definitions

1. "100% Value of the Property Insured" means 100% of the property insured at the time of loss or damage at the "locations" where the physical damage occurred.
2. "Bacteria" means any type or form of bacterium; or any byproduct that is produced or released by such bacterium.
3. "Business income" means the:
  - a. Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred; and
  - b. Continuing "normal" operating expenses incurred, including payroll.For manufacturing risks, Net Income includes the net sales value of production.
4. "Computer operations" means "computer systems" or "electronic data communications system".
5. "Computer systems" means computer hardware of any kind; "electronic computer programs"; "electronic data processing media"; "electronic data"; operating system; "media" microchip; microprocessors (computer chips); integrated circuit or similar device; computer network and networking equipment; firmware; servers; web sites; "extranet"; and all input, output, processing, storage, and off-line "media" libraries.
6. "Computer virus" means any corrupting, harmful or otherwise unauthorized instructions or code including, but not limited to, any maliciously introduced unauthorized instructions or code, programmatic or otherwise, that propagate themselves through a computer system or network of whatsoever nature. "Computer virus" includes, but is not limited to, 'Trojan Horses', 'worms' and time or logic bombs'.
7. "Contingent property" means property operated by others who are:
  - a. Direct suppliers of materials or services to you and from whom you are contractually obligated to purchase materials or services. But any property which delivers any of the following services is not considered to be a "contingent property" with respect to such services:
    1. Water supply services;
    2. Power supply services; or
    3. Communication supply services, including services relating to internet access or access to any electronic network;
  - b. Your direct customers who are contractually obligated to accept product(s) produced or service(s) provided by you;
8. "Data" means information or knowledge.
9. "Electronic computer programs" means computer software, applications software, and other recorded instructions for the processing, sequencing, collecting, transmitting, recording, retrieval, or storage of "electronic data"
10. "Electronic data" means "data" recorded or transmitted in a form usable in "computer systems", microchips, integrated circuits or similar devices in non-computer equipment, and which can be stored on "electronic data processing media" for use by "electronic computer programs".

11. "Electronic data communications system" means any communication system, including "computer systems" and the "internet", which provides the Insured with access to other "computer systems", microchips, integrated circuits or similar devices in non-computer equipment, or which provides any party access to your "computer systems", microchips, integrated circuits or similar devices in non-computer equipment.
12. "Electronic data processing media" means punch cards, paper tapes, floppy disks, CD-ROM, hard drives, magnetic tapes, magnetic discs or any other tangible personal property on which "electronic data" or "electronic computer programs" are recorded or transmitted, but not the "electronic data" or "electronic computer programs" themselves. "Money" or "securities" are not "electronic data processing media".
13. "Extranet" means an internal computer network that has been selectively opened to suppliers, customers, or other third parties via the "internet" or otherwise.
14. "Extra expense" means necessary expenses you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property caused by or resulting from a Covered Cause of Loss.
15. "Fine arts" means paintings; etchings; pictures; tapestries; rare or art glass; art glass windows; valuable rugs; statuary; sculptures; antique furniture; bric-a-brac; porcelains; and similar property of rarity, historical value, or artistic merit excluding automobiles, coins, stamps, furs, jewelry, precious stones, precious metals, watercraft, aircraft, "money" and "securities".
16. "Finished stock" means stock you have manufactured.  
  
"Finished stock" does not include stock you have manufactured that is held for sale on the premises of any retail outlet insured under this policy.
17. "Full 12 Months Time Element Values" means full 12 months Time Element values that would have been earned in the 12-month period following the "occurrence" by use of the facilities at the "location" where the physical damage occurred and all other "locations" where Time Element loss ensues.
18. "Fungus" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
19. "High Hazard Flood Zone" means areas which at the time of loss or damage have been designated by the Federal Emergency Management Agency to be in a Special Flood Hazard Area (SFHA).
20. "Internet" means the worldwide publicly accessible network of computers, which is commonly referred to as 'The Internet' or 'World Wide Web', or any other similar publicly accessible network hereafter to be developed.
21. "Lease" means the lease or rental agreement, whether written or oral, in effect as of the time of loss.
22. "Leasehold interest" means the excess rent paid for either the same or similar replacement property over the amount of rent and other charges which would have been payable under the unexpired "lease" plus bonuses or advance rent paid (including any maintenance, operating charges or taxes) for each month during the unexpired term of the Insured's "lease".
23. "Location(s)" means locations as listed on the Schedule of Locations attached to this policy or as listed on the latest schedule on file with us. If not so specified or if the Miscellaneous Unnamed Location provision is applicable, a building, yard, dock, wharf, pier or bulkhead (or any group of the foregoing) bounded on all sides by public streets, clear land space or open waterways, each not less than fifty feet wide. Any bridge or tunnel crossing such street, space or waterway will render such separation inoperative.
24. "Media" means any item of tangible personal property on which "data" or "programs" can be recorded, but not the "data" or "programs" themselves. "Money" or "securities" are not "media".
25. "Merchandise" means goods kept for sale by you, which are not the product of your manufacturing operations.
26. "Money" means currency, coins, bank notes and bullion; and travelers checks, register checks and money orders held for sale to the public.
27. "Net leasehold interest" means the present value of the amount which placed at four percent (4%) annual interest would equal the "leasehold interest" (less any amounts otherwise payable hereunder).

- 28.** "Named Storm" means including, but not be limited to, storm, cyclone, typhoon, atmospheric disturbance, depression or other weather phenomena designated by the US National Hurricane Center and where a name (and not only a number) has been applied.
- 29.** "Normal" means the condition that would have existed had no loss occurred.
- 30.** "Occurrence" means, except as may be more specifically defined for a Covered Cause of Loss, any one loss, disaster or casualty, or series of losses, disasters or casualties arising out of one event. When the word applies to loss or losses from the perils of tornado, tsunami, windstorm, Named Windstorm, hail, riot, riot attending a strike, civil commotion, malicious mischief, "flood", "earthquake" or leakage from fire extinguishing equipment due to "earthquake", if such perils are covered under this "policy", one event shall be construed to be all losses arising during a continuous period of seventy-two (72) hours. When filing proof of loss, you may elect the moment at which such seventy-two (72) hour period shall be deemed to have commenced, which shall not be earlier than when the first loss to property or interests insured under this policy occurs. However, we shall not be liable hereunder for any loss or damage:
- a.** occurring before this policy becomes effective; or
  - b.** arising from an "occurrence" which is in progress at the time this policy becomes effective, even if such loss or damage occurs after this policy becomes effective; or
  - c.** occurring after the expiration of this policy, except loss or damage arising from an "occurrence" in progress at the time this policy expires.
- 31.** "Operations" means:
- a.** Your business activities occurring at an "insured location"; and
  - b.** The tenant ability of an "insured location", if Rental Value coverage applies.
- 32.** "Period of restoration" means the period of time that:
- a.** Begins: immediately after the time of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at an "insured location"; and
  - b.** Ends on the earlier of:
    - (1) The date when the property at an "insured location" should be repaired, rebuilt or replaced with reasonable speed and similar quality; or
    - (2) The date when business is resumed at a new permanent "location".
- "Period of restoration" does not include any increased period required due to the enforcement of any ordinance or law that:
- (1) Regulates the construction, use or repair, or requires the tearing down of any property; or
  - (2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".
- The expiration date of this policy will not cut short the "period of restoration".
- The "period of restoration" definition, with respect to "contingent property", is the same as above, but with the term "contingent property" replacing "insured location".
- 33.** "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including, but not limited to, asbestos, dioxin, polychlorinated biphenols, smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

"Pollutants" include, but are not limited to those materials that can cause or threaten damage to human health or human welfare or cause or threaten damage, deterioration, loss of value, marketability or loss of use to property including "bacteria", fungi, mold, mildew, virus or hazardous substances as listed in the Federal Water Pollution Control Act, Clean Air Act, Resource Conservation and Recovery Act of 1976, Toxic Substances Control Act or as designated by the U.S. Environmental Protection Agency or any other governing authority.

- 34.** "Program" means recorded instructions, whether digital or otherwise, for the processing, collecting, transmitting, recording, retrieval or storage of "data".
- 35.** "Rental Value" means:
- a.** Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred as rental income from tenant occupancy of an "insured location" as furnished and equipped by you, including fair rental value of any portion of an "insured location" which is occupied by you; and
  - b.** Continuing "normal" operating expenses incurred in connection with that "insured location", including:
    - (1)** Payroll; and
    - (2)** The amount of charges which are the legal obligation of the tenant(s) but would otherwise be your obligations.
- 36.** "Repair or replacement cost" means the lesser of:
- a.** The cost to rebuild or replace on the same site with new materials of like size, kind and quality.
  - b.** The cost in rebuilding, repairing or replacing on the same or another site, but not to exceed the size and operating capacity that existed on the date of loss.
  - c.** The selling price of real property or machinery and equipment, other than stock, offered for sale on the date of loss.
  - d.** The cost to replace unrepairable electrical or mechanical equipment, including computer equipment, with equipment that is the most functionally equivalent to that damaged or destroyed, even if such equipment has technological advantages and/or represents an improvement in function and/or forms part of a program of system enhancement.
  - e.** The increased cost of demolition, if any, resulting from loss covered by this Policy, if such property is scheduled for demolition.
  - f.** The actual cash value if such property is:
    - (1)** useless to you; or
    - (2)** not repaired, replaced or rebuilt on the same or another site within one year from the date of loss.
- "Repair or replacement cost" does not include any increase of loss resulting from enforcement of any law, ordinance, regulation or rule, regulating or restricting the construction, installation, repair, replacement, demolition, occupancy, operation or other use of property at an "insured location" other than that provided for in the Ordinance or Law provision of the Extensions of Coverage.
- 37.** "Securities" means all negotiable and nonnegotiable instruments or contracts representing either "money" or other property and includes revenue and other stamps in current use, tokens and tickets, but does not include "money".
- 38.** "Specified Causes of Loss" means the following: Fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.
- a.** Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:
    - (1)** The cost of filling sinkholes; or
    - (2)** Sinking or collapse of land into man-made underground cavities.
  - b.** Falling objects does not include loss or damage to:
    - (1)** Personal property in the open; or
    - (2)** The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.



- c. Water damage means accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of a plumbing, heating, air conditioning or other system or appliance (other than a sump system including its related equipment and parts), that is located on the described premises and contains water or steam.
39. "Stock" means "merchandise" held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.
40. "Suspension" means:
- a. The slowdown or cessation of your business activities; or
  - b. That a part or all of the "insured location" is rendered untenable, if coverage for "rental value" applies.
41. "Tier 1 Windstorm Areas" means the following counties, parishes and independent cities including barrier islands within these states:
1. Florida: All
  2. Hawaii: All
  3. Alabama: Baldwin, Mobile
  4. Georgia: Bryan, Camden, Chatham, Glynn, Liberty, McIntosh
  5. Louisiana: Cameron, Iberia, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Martin, St. Mary, St. Tammany, Terrebonne, Vermillion
  6. Mississippi: Hancock, Harrison, Jackson
  7. North Carolina: Beaufort, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Hyde, Jones, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, Washington
  8. South Carolina: Beaufort, Berkeley, Charleston, Colleton, Georgetown, Horry, Jasper
  9. Texas: Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Harris, Jackson, Jefferson, Kennedy, Kleberg, Matagorda, Nueces, Refugio, Orange, San Patricio, Willacy
  10. Virginia: Accomack, Gloucester, Isle of Wight, James City, Lancaster, Matthews, Middlesex, Northampton, Northumberland, Surry, York and Independent Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach.
42. "Time Element" means coverage provided under the Time Element section of this policy.
43. "Total Insurable Value" means 100% value of the Covered Property at the time of loss or damage at the "locations" where the physical damage occurred plus full 12 months Time Element values that would have been earned in the 12-month period following the "occurrence" by use of the facilities at the "location" where the physical damage occurred and all other "locations" where Time Element loss ensues.
44. "Utility services" means;
- a. the following property supplying water to the "insured location":
    1. Pumping stations; and
    2. Water mains.
  - b. the following property supplying communication services, including telephone, radio, microwave or television services to the "insured locations":
    1. Communication transmission lines, including optic fiber transmission lines;
    2. Coaxial cables; and
    3. Microwave radio relays except satellites.

c. the following types of property supplying electricity, steam or gas to "insured locations":

1. Utility generating plants;
2. Switching stations;
3. Substations;
4. Transformers; and
5. Transmission lines.

Utility Services does not mean or include overhead transmission lines.

45. "Unoccupied" means containing contents pertaining to the occupancy of the building while operations or other customary activities are suspended.
46. "Vacant" means containing no contents pertaining to operations or activities customary to occupancy of the building.



# Flood Endorsement

1. In consideration of an additional premium of \$Included - it is understood and agreed that Paragraph B. Exclusions, item **g. Flood**, of **COVERED CAUSES OF LOSS AND EXCLUSIONS** is amended as follows.

**g. Flood**

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

- (1) Foundations, walls, floors or paved surfaces;
- (2) Basements, whether paved or not; or
- (3) Doors, windows or other openings.

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

Special limits of liability and a special deductible are added as follows:

**A. LIMITS OF LIABILITY:**

The liability of the Company for loss or damage caused by or resulting from floods; meaning rising water, tidal water or tidal wave, rising (including the overflowing or breaking of boundaries) of lakes, ponds, reservoirs, rivers, harbors, streams and similar bodies of water whether driven by wind or not and spray from any of the foregoing shall not exceed the sum of \$per policy form at any one insured location. Notwithstanding the limit of liability stated herein, if any, liability shall not exceed the sum of \$per policy form in any single one year period or policy period, whichever is less.

**B. DEDUCTIBLE:**

The sum of \$per policy form per occurrence shall be deducted from any adjusted claim due to flood as defined herein.

2. If the coverage of the policy to which this endorsement is attached includes both Property Damage and Business Interruption, the foregoing limits shall be the maximum amounts collectible under this 'policy for loss or damage resulting from the peril described in paragraph **1.A.** above, regardless of whether the loss involves Property Damage alone or both Property Damage and Business Interruption.

# Earthquake (Excluding Sprinkler Leakage) Endorsement

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the:

## **AmWINS PROPERTY FORM**

1. Paragraph **B. Exclusion**, item **b. Earth Movement**, of the **Covered Causes Of Loss And Exclusions** Section is replaced by the following:

### **b. Earth Movement**

Any earth movement (other than earthquake and volcanic eruption), such as landslide, or earth sinking, rising or shifting. But, if loss or damage by fire or explosion results, we will pay for that resulting loss or damage.

2. The following is added to Paragraph E. Limit of Liability of the Property Damage Coverage Schedule Section.

### **Earthquake Limit Of Liability:**

The liability of the Company for loss or damage caused by earthquake and volcanic eruption shall not exceed the sum of **PER POLICY FORM**, for loss or damage at any one insured location. Notwithstanding the limit of liability stated herein, if any, liability shall not exceed the sum of **PER POLICY FORM** due to any one earthquake or volcanic eruption loss nor shall it exceed the sum of **PER POLICY FORM** in any one year period or policy period, whichever is less.

3. The following is added to Paragraph **F. Deductible** of the **Property Damage Coverage Schedule** Section.

### **Earthquake Deductible:**

The sum of **PER POLICY FORM** shall be deducted from any adjusted claim due to earthquake or volcanic eruption.

4. Each loss by earthquake or volcanic eruption shall constitute a single claim hereunder; provided that if more than one earthquake shock or volcanic eruption shall occur within any period of 72 hours during the term of this endorsement, such shocks shall be considered to constitute a single earthquake or volcanic eruption.
5. If the coverage of the policy to which this endorsement is attached includes Property Damage and Business Interruption, the foregoing limits shall be the maximum amounts collectible under this policy for loss or damage resulting from the peril describes in Paragraph **2.** above, regardless of whether the loss involves Property Damage alone or both Property Damage and Business Interruption.
6. This policy does not cover liability for direct loss or damage to covered property caused by or resulting from sprinkler leakage from fire protective equipment even if such sprinkler leakage is caused directly by earthquake as insured against by this policy.

## CAT Minimum Earned Premium

The following additional provisions shall apply with respect to the cancellation clause of this policy:

- A.** If this policy covers any location or locations in “Tier 1 wind zone(s)” as defined in this policy, and the policy is cancelled at the request of the Insured, the following provision will apply.

If coverage existed at any time during the period from June 1st to November 30th, the amount of premium we will return will be a percentage of the total premium, determined as follows:

### 1 Year Policy

Days in Force	Percentage
1 to 180	20%
181 to 210	15%
211 to 240	10%
241 to 270	7.5%
271 to 300	5.0%
301 to 330	2.5%
331 to 365	0.0%

If a coverage or location is added or deleted to the policy, each type of coverage or such location(s) shall be underwritten separately and the rate will be determined based upon the characteristics of the risk.

If a location within a “Tier 1 wind zone” is added or deleted, and coverage for that location existed at any time during the period from June 1<sup>st</sup> to November 30<sup>th</sup>, the premium to be returned for that location will be determined using the table above.

If a location is not within a “Tier 1 wind zone” and is added or deleted, normal pro rata or short rate factors shall apply as appropriate.

- B.** Tier 1 wind zone is defined as follows:

All reference herein to “Tier I”, “Tier I Windstorm” or similar “Tier I” references, shall be defined as all locations situated within *Tier I States or Counties* as specified below:

Alabama:	Baldwin, Mobile;
Florida:	Entire State of Florida;
Georgia:	Bryan, Camden, Chatham, Glynn, Liberty, McIntosh;
Hawaii:	Entire State of Hawaii;
Louisiana:	Cameron, Iberia, Jefferson, Lafourche, Orleans, Plaquemines, St. Mary, St. Bernard, St. Martin, St. Tammany, Terrebonne, Vermilion;
Mississippi:	Hancock, Harrison, Jackson;
North Carolina:	Beaufort, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Hyde, Jones, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans; Tyrrell, Washington;
South Carolina:	Beaufort, Berkley, Charleston, Colleton, Georgetown, Horry, Jasper;
Texas:	Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Harris, Jackson, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refugio, San Patricio, Willacy;
Virginia:	Accomack, Northampton, Virginia Beach City, Chesapeake, Gloucester, Hampton City, Isle of Wright, James City, Lancaster, Mathews, Middlesex, Newport News, Norfolk City, Northumberland, Poquoson City, Portsmouth City, Suffolk City, York;
All other states:	As provided by endorsement hereto (if any).

All other terms and conditions of the policy remain the same.

## Electronic Date Recognition Exclusion (EDRE)

Any other similar Exclusion within this Policy (or within any other Endorsement which forms part of this Policy) is deleted and replaced by the following:

This Policy does not cover any loss, damage, cost, claim or expense, whether preventative, remedial or otherwise, directly or indirectly arising out of or relating to:

- a.** the calculation, comparison, differentiation, sequencing or processing of data involving the date change to the year 2000, or any other date change, including leap year calculations, by any computer system, hardware, programme or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the Insured or not; or
- b.** any change, alteration, or modification involving the date change to the year 2000, or any other date change, including leap year calculations, to any such computer system, hardware, programme or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the Insured or not.

This clause applies regardless of any other cause or event that contributes concurrently or in any sequence to the loss, damage, cost, claim or expense.

## **Biological Or Chemical Materials Exclusion**

Any other similar Exclusion within this Policy (or within any other Endorsement which forms part of this Policy) is deleted and replaced by the following:

It is agreed that this Insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence thereto.

## **Radioactive Contamination Exclusion Clause – Physical Damage – Direct (U.S.A)**

Any other similar Exclusion within this Policy (or within any other Endorsement which forms part of this Policy) is deleted and replaced by the following:

This policy does not cover any loss or damage arising directly or indirectly from nuclear reaction, nuclear radiation or radioactive contamination however such nuclear reaction, nuclear radiation or radioactive contamination may have been caused. \*NEVERTHELESS if Fire is an insured peril and a Fire arises directly or indirectly from nuclear reaction, nuclear radiation or radioactive contamination any loss or damage arising directly from that Fire shall (subject to the provisions of this policy) be covered EXCLUDING however all loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination arising directly or indirectly from that Fire.

\*NOTE - If Fire is not an insured peril under this policy the words from "NEVERTHELESS" to the end of the clause do not apply and should be disregarded.

## **Land, Water And Air Exclusion**

Notwithstanding any provision to the contrary within the Policy of which this Endorsement forms part (or within any other Endorsement which forms part of this Policy), this Policy does not insure land (including but not limited to land on which the insured property is located), water or air, howsoever and wherever occurring, or any interest or right therein.

# Seepage And/Or Pollution And/Or Contamination Exclusion

Notwithstanding any provision to the contrary within the Policy of which this Endorsement forms part (or within any other Endorsement which forms part of this Policy), this Policy does not insure:

- a. any loss, damage, cost or expense, or
- b. any increase in insured loss, damage, cost or expense, or
- c. any loss, damage, cost, expense, fine or penalty, which is incurred, sustained or imposed by order, direction, instruction or request of, or by any agreement with, any court, government agency or any public, civil or military authority, or threat thereof, (and whether or not as a result of public or private litigation),

which arises from any kind of seepage or any kind of pollution and/or contamination, or threat thereof, whether or not caused by or resulting from a peril insured, or from steps or measures taken in connection with the avoidance, prevention, abatement, mitigation, remediation, clean-up or removal of such seepage or pollution and/or contamination or threat thereof.

The term "any kind of seepage or any kind of pollution and/or contamination" as used in this Endorsement includes (but is not limited to):

- a. seepage of, or pollution and/or contamination by, anything, including but not limited to, any material designated as a "hazardous substance" by the United States Environmental Protection Agency or as a "hazardous material" by the United States Department of Transportation, or defined as a "toxic substance" by the Canadian Environmental Protection Act for the purposes of Part II of that Act, or any substance designated or defined as toxic, dangerous, hazardous or deleterious to persons or the environment under any other Federal, State, Provincial, Municipal or other law, ordinance or regulation; and
- b. the presence, existence, or release of anything which endangers or threatens to endanger the health, safety or welfare of persons or the environment.



# Asbestos Endorsement

Any other similar Provision within this Policy (or within any other Endorsement which forms part of this Policy) is deleted and replaced by the following:

**A.** This Policy only insures asbestos physically incorporated in an insured building or structure, and then only that part of the asbestos which has been physically damaged during the period of insurance by one of these Listed Perils:

fire; explosion; lightning; windstorm; hail; direct impact of vehicle, aircraft or vessel; riot or civil commotion, vandalism or malicious mischief; or accidental discharge of fire protective equipment.

This coverage is subject to each of the following specific limitations:

1. The said building or structure must be insured under this Policy for damage by that Listed Peril.
2. The Listed Peril must be the immediate, sole cause of the damage of the asbestos.
3. The Assured must report to Underwriters the existence and cost of the damage as soon as practicable after the Listed Peril first damaged the asbestos. However, this Policy does not insure any such damage first reported to the Underwriters more than 12 months after the expiration, or termination, of the period of insurance.
4. Insurance under this Policy in respect of asbestos shall not include any sum relating to:
  - a. Any faults in the design, manufacture or installation of the asbestos;
  - b. Asbestos not physically damaged by the Listed Peril including any governmental or regulatory authority direction or request of whatsoever nature relating to undamaged asbestos.

**B.** Except as set forth in the foregoing Section **A**, this Policy does not insure asbestos or any sum relating thereto.

# Electronic Data Endorsement B

## 1. Electronic Data Exclusion

Notwithstanding any provision to the contrary within the Policy or any endorsement thereto, it is understood and agreed as follows:

- a. This Policy does not insure loss, damage, destruction, distortion, erasure, corruption or alteration of ELECTRONIC DATA from any cause whatsoever (including but not limited to COMPUTER VIRUS) or loss of use, reduction in functionality, cost, expense of whatsoever nature resulting therefrom, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

ELECTRONIC DATA means facts, concepts and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programs, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.

COMPUTER VIRUS means a set of corrupting, harmful or otherwise unauthorized instructions or code including a set of maliciously introduced unauthorized instructions or code, programmatic or otherwise, that propagate themselves through a computer system or network of whatsoever nature. COMPUTER VIRUS includes but is not limited to 'Trojan Horses', 'worms' and 'time or logic bombs'.

- b. However, in the event that a peril listed below results from any of the matters described in paragraph a. above, this Policy, subject to all its terms, conditions and exclusions, will cover physical damage occurring during the Policy period to property insured by this Policy directly caused by such listed peril.

Listed Perils:

(1) Fire

(2) Explosion

## 2. Electronic Data Processing Media Valuation

Notwithstanding any provision to the contrary within the Policy or any endorsement thereto, it is understood and agreed as follows:

Should electronic data processing media insured by this Policy suffer physical loss or damage insured by this Policy, then the basis of valuation shall be the cost of the blank media plus the costs of copying the ELECTRONIC DATA from back-up or from originals of a previous generation. These costs will not include research and engineering nor any costs of recreating, gathering or assembling such ELECTRONIC DATA. If the media is not repaired, replaced or restored the basis of valuation shall be the cost of the blank media. However this Policy does not insure any amount pertaining to the value of such ELECTRONIC DATA to the Insured or any other party, even if such ELECTRONIC DATA cannot be recreated, gathered or assembled.

# Mold Exclusion

Notwithstanding anything to the contrary contained in the Policy:

- 1) We will not pay for loss, damage, cost, or expense caused directly or indirectly by, arising out of, resulting from, contributed to by, or related in any way to "mold". Loss, damage, cost or expense caused directly or indirectly by, arising out of, resulting from, contributed to by, or related in any way to "mold" is excluded regardless of any other cause or event that contributes concurrently, or in any sequence with, the loss, damage, cost or expense; and
- 2) We will not defend any claim or suit, or pay any damages, loss, expense, cost or obligation caused directly or indirectly by, arising out of, resulting from, contributed to by, or related in any way to "mold".

This exclusion also applies to any damage, loss, cost, or expense arising out or associated in any way, with any:

- a) request, demand, or order that any insured or others abate, mitigate, test for, monitor, remediate, clean up, remove, contain, treat, detoxify, kill, destroy, dispose of, investigate or neutralize, or in any way respond to or assess the presence or effects of "mold"; or
- b) claim or suit on behalf of any person, entity, or organization, including any governmental authority, for damages because of abating, mitigating testing for, monitoring, remediating cleaning up, removing, containing, treating, detoxifying, killing, destroying, disposing of, investigating, or neutralizing, or in any way responding to, or assessing, the effects of "mold"; or
- c) any obligation to share with, repay, or indemnify any person, organization or entity, related in any way to items a) and b) above.

The following definition is added to the Policy;

"Mold" means any species of fungi, including but not limited to, mold, yeast, mildew, spores, mold, toxins, mycotoxins, mold metabolites, mold antigens, mold allergens, mold-produced antibiotics, or dust or fumes containing any of the foregoing, individually, or in any combination therewith or with another substance.

## **WAR AND TERRORISM EXCLUSION ENDORSEMENT**

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss;

1. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
2. any act of terrorism.

For the purpose of this endorsement an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This endorsement also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to 1 and/or 2 above.

If the Underwriters allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Assured.

In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

**08/10/01  
NMA2918**

## Occurrence Limit of Liability - Stated Value

1. The Limit of Liability or Amount of Insurance shown on the face of this policy, or endorsed onto this policy, is the total of the Insurer(s) liability applicable to each occurrence, as hereafter defined. Notwithstanding any other terms and conditions of this policy to the contrary, in no event shall the liability of the Insurer(s) exceed this limit or amount irrespective of the number of locations involved.

The term "occurrence" shall have the same meaning as that provided in the Policy/ies of the Primary Insurer(s).

2. The premium for this policy is based upon the Statement of Values on file with the Insurer(s), or attached to this policy. In the event of loss hereunder, liability of the Insurer(s), subject to terms of paragraph 1. above, shall be limited to the least of the following:
  - a. The actual adjusted amount of loss, less applicable deductible(s).
  - b. 100% of the individually stated value for each scheduled item of property involved, as shown on the latest Statement of Values on file with Insurer(s), less applicable deductible(s) and primary and underlying excess limits. If no value is shown for a scheduled item then there is no coverage for that item; or
  - c. The Limit of Liability or Amount of Insurance shown on the Declarations of this policy or as endorsed onto this policy.

# Boiler And Machinery Exclusion

Any other similar Exclusion within this Policy (or within any other Endorsement which forms part of this Policy) is deleted and replaced by the following:

This Policy excludes loss or damage due to:

1. Explosion in or of any of the following property: steam boilers, including equipment attached to and forming a part thereof; steam turbines; steam engines; steam pipes connecting any of the foregoing; or gas turbines; except that this exclusion shall not apply to explosion of accumulated gases or unconsumed fuel within the firebox or the combustion chamber of any fired vessel, other than gas turbines, or within the flues or passages which conduct the gases of combustion therefrom.
2. Rupture, bursting, cracking, burning or bulging of any of the following property: steam boilers, including equipment attached to and forming a part thereof; steam turbines; steam engines; steam pipes connecting any of the foregoing; hot water boilers or other equipment for heating water; pressure vessels, including equipment attached to and forming a part thereof; or gas turbines.
3. Mechanical or machinery breakdown, including rupture or bursting caused by centrifugal force.
4. Electrical injury or disturbance to electrical appliances, devices, fixtures, wiring, or other electrical or electronic equipment caused by electrical currents artificially generated.

# Protective Safeguards – Fire Endorsement

## SCHEDULE

Symbol(s)	Location(s) Applicable
AS	as indicated on the Schedule of Values on file with the Company.
AA	as indicated on the Schedule of Values on file with the Company.
SS	as indicated on the Schedule of Values on file with the Company.
OTHER	as indicated on the Schedule of Values on file with the Company.
<b>Describe any "OTHER":</b> (a) Ansul Systems – ansul system over all cooking surfaces and semi-annual professional cleaning for hoods and ducts required (b) Heating, Ventilation, and Air Conditioning – maintained and in operation at all times (c) any aluminum wiring in buildings are properly pigtailed or retrofitted with CO/AL receptacles on all switches, outlets and circuit breaker panels and in accordance with local electrical codes.	

### Protective Safeguards

- A.** As a condition of this insurance, you are required to maintain the protective devices or services listed in the Schedule above.

The protective safeguard(s) to which this endorsement applies are identified by the following symbols:

**1. "AS" Automatic Sprinkler System**, including related supervisory services.

Automatic Sprinkler System means:

- a.** Any automatic fire protective or extinguishing system, including connected:

- (1) Sprinklers and discharge nozzles;
- (2) Ducts, pipes, valves and fittings;
- (3) Tanks, their component parts and supports; and
- (4) Pumps and private fire protection mains.

- b.** When supplied from an automatic fire protective system:

- (1) Non-automatic fire protective systems; and
- (2) Hydrants, standpipes and outlets.

**2. "AA" Automatic Fire Alarm**

Means an automatic fire alarm protecting the entire building that is:

- a.** Connected to a central station; or
- b.** Reporting to a public or private fire alarm station.

**3. "SS" Security Service,**

Means a security service with a recording system or watch clock, making hourly rounds covering the entire building, when the premises are not in actual operation.

**4. "SC" Service Contract**

Means a written contract with a privately owned fire department providing fire protection service to the described premises.

**5. "OTHER"**

Means the protective system described in the Schedule.

- B.** The following is added to the **EXCLUSIONS** section of the policy referenced above:

We will not pay for loss or damage caused by or resulting from fire if, prior to the fire, you failed to maintain any protective safeguard listed in the Schedule above, and over which you had control, in complete working order.

# Burglary And Robbery Protective Safeguards

This endorsement modifies insurance provided under the following:

## COMMERCIAL PROPERTY COVERAGE PART

### SCHEDULE\*

Premises No.	Building No.	Protective Safeguards Symbols Applicable
as indicated on the Schedule of Values on file with the Company.		BR-1
Describe any "Safeguard": Central Station Burglar Alarm		

\*Information required to complete this Schedule, if not shown on this endorsement, will be shown in the Declarations.

#### A. The following is added to the Commercial Property Conditions:

##### BURGLARY AND ROBBERY PROTECTIVE SAFEGUARDS

- As a condition of this insurance, you are required to maintain the protective devices and/or services listed in the Schedule above.
- The protective safeguard(s) to which this endorsement applies are identified by the following symbols:
  - "BR-1" Automatic Burglary Alarm, protecting the entire building, that signals to:
    - An outside central station; or
    - A police station.
  - "BR-2" Automatic Burglary Alarm, protecting the entire building that has a loud sounding gong or siren on the outside of the building.
  - "BR-3" Security Service, with a recording system or watch clock, making hourly rounds covering the entire building, when the premises are not in actual operation.
  - "BR-4" The protective safeguard described in the Schedule.

#### B. The following is added to the Exclusions section of the Causes Of Loss – Special Form:

##### BURGLARY AND ROBBERY PROTECTIVE SAFEGUARDS

We will not pay for loss or damage caused by or resulting from theft if, prior to the theft, you:

- Knew of any suspension or impairment in any protective safeguard listed in the Schedule above and failed to notify us of that fact; or
- Failed to maintain any protective safeguard listed in the Schedule above, and over which you had control, in complete working order.



# Joint Loss Agreement - Property and Equipment Breakdown

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the:

**AmWINS PROPERTY FORM**

The following is added to the **General Conditions** section:

In the event of loss of or damage to Covered Property at a premises that is covered by both this Coverage Part and Equipment Breakdown Insurance or similar insurance provided by other insurers, and there is disagreement between us and the Equipment Breakdown Insurers as to whether the loss or damage:

1. Was caused by a covered cause of loss insured under the Equipment Breakdown Insurance;
2. Was caused by a covered cause of loss to property insured under this Coverage Part; or
3. Is partially covered by either;


we will pay, after we receive your written request, the amount of loss or damage that we have accepted as covered by this Coverage Part and one-half (1/2) the amount of loss or damage that is in disagreement, but no more than we would have paid had there been no Equipment Breakdown Insurance in effect at the time of the occurrence, subject to the following conditions:

1. The amount of loss or damage is agreed to by you, the Equipment Breakdown insurers, and us.
2. Any payment under this endorsement is limited to the least amount payable under either the Equipment Breakdown Insurance or this Coverage Part. In no event will we pay more than the applicable Limit of Insurance shown on the Declarations.
3. The Equipment Breakdown Insurers will pay you the amount of loss they have accepted as covered by the Equipment Breakdown Insurance and one-half (1/2) the amount of loss that is in disagreement.
4. After payment of the loss under the terms of this endorsement, the Equipment Breakdown Insurers and we agree to submit our differences to arbitration within 90 days of such payment. There will be three arbitrators; one will be appointed by us, one will be appointed by the Equipment Breakdown Insurers, and one will be appointed by the mutual agreement of the Equipment Breakdown Insurers and us. The arbitrators' decision shall be binding on the insurers. Judgment on any award can be entered in any court that has jurisdiction.
5. You agree to cooperate with us in any arbitration proceedings.
6. The provisions of this endorsement will not apply unless the Equipment Breakdown Insurance or similar insurance is similarly endorsed with a Joint Loss Agreement.
7. Acceptance by you of sums paid under this endorsement does not alter, waive or surrender your rights against us.

All other terms, conditions, provisions and exclusions of this policy remain the same.

# Policy Changes

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

<b>POLICY NUMBER(S):</b> I. AQS-190557 HAQS-190557 TR00093911900557 SRC-100428 SCO0000282 AMS-190557  II. AQS-190558 HAQS-190558 TR00093911900558 SRC-100429 SCO0000283 AMS-190558	<b>POLICY CHANGES EFFECTIVE:</b> 4/24/2019  <b>POLICY CHANGE NO.</b> 2	<b>COMPANY(S):</b> I. Certain Underwriters at Lloyd's HDI Global Specialty SE General Security Indemnity Company of Arizona Crum & Forster Specialty Insurance Company Western World Insurance Company Safety Specialty Insurance Company  II. Certain Underwriters at Lloyd's HDI Global Specialty SE General Security Indemnity Company of Arizona Crum & Forster Specialty Insurance Company Western World Insurance Company Safety Specialty Insurance Company
<b>NAMED INSURED:</b> 831 Federal Highway Acquisition LLC dba The Big Easy		<b>AUTHORIZED REPRESENTATIVE:</b> 

It is hereby agreed and understood that the following change(s) are made to this policy:

1. Coverage for the Peril of Flood in Layer I is excluded in 100 Year Flood Zones.
2. Coverage for the Peril of Earthquake in Layer I is excluded in the State of California.
3. The following Perils are excluded in Layer II: Named Windstorm, Flood, and Earthquake.

## **Pre-Existing Damage Exclusion Endorsement**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

It is understood and agreed that this policy shall exclude any loss or damage directly or indirectly caused by, resulting from or contributed to by any pre-existing building damage at the time of this Certificate's or this policy's inception. This exclusion shall be removed upon substantial completion of repair or reconstruction of the damaged building.

# Sinkhole Loss Endorsement

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the:

## **AmWINS PROPERTY FORM**

It is understood and agreed that this policy is extended to cover Sinkhole Loss, excluding locations in the entire State of Florida.

For locations in the State of Florida, the following is added as a Covered Cause Of Loss:

### **CATASTROPHIC GROUND COVER COLLAPSE**

We will pay for direct physical loss or damage to Covered Property caused by or resulting from catastrophic ground cover collapse, meaning geological activity that results in all of the following:

- (a) The abrupt collapse of the ground cover;
- (b) A depression in the ground cover clearly visible to the naked eye;
- (c) Structural damage to the building, including the foundation; and
- (d) The insured structure being condemned and ordered to be vacated by the governmental agency authorized by law to issue such an order for that structure.

However, structural damage consisting merely of the settling or cracking of a foundation, structure or building does not constitute loss or damage resulting from a catastrophic ground cover collapse.

The Earth Movement exclusion and the Collapse exclusion do not apply to coverage for Catastrophic Ground Cover Collapse.

Coverage for Catastrophic Ground Cover Collapse does not increase the applicable Limit of Liability. Regardless of whether loss or damage attributable to catastrophic ground cover collapse also qualifies as Sinkhole Loss or Earthquake (if either or both of those causes of loss are covered under this Policy), only one Limit of Liability will apply to such loss or damage.

Sinkhole Loss is defined as:

1. As respects locations in all states, EXCEPT Florida:

Sinkhole Loss means: The sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This does not include:

- a. The cost of filling sinkholes; or
- b. Sinking or collapse of land into man-made underground cavities.

2. As respects locations in Florida:

a. **Sinkhole Loss**, means loss or damage to Covered Property when "structural damage" to the covered **Building**, including the foundation, is caused by settlement or systematic weakening of the earth supporting the covered **Building**, only if the settlement or systematic weakening results from contemporaneous movement or raveling of soils, sediments, or rock materials into subterranean voids created by the effect of water on a limestone or similar rock formation.

Coverage for Sinkhole Loss includes stabilization of the **Building** (including land stabilization) and repair to the foundation, provided such work is in accordance with the requirements of

Florida Insurance Law and in accordance with the recommendation of a professional engineer and with notice to the Insured. The professional engineer must be selected or approved by the Companies. However, until the Insured enters into a contract for performance of building stabilization or foundation repair in accordance with the recommendations of the professional engineer as set forth in a report from the Companies:

- 1) The Companies will not pay for underpinning or grouting or any other repair technique performed below the existing foundation of the **Building**; and
- 2) The Companies' payment for Sinkhole Loss to Covered Property may be limited to the Actual Cash Value of the loss to such property.

The Insured must enter into a contract for the performance of building stabilization and/or foundation repair in accordance with the aforementioned recommendations, within 90 days after the Companies notify the Insured that there is coverage for Sinkhole Loss. After the Insured has entered into such contract, the Companies will pay the amounts necessary to begin and perform such repairs as the work is performed and the expenses are incurred.

However, if the professional engineer determines, prior to the Insured entering into the aforementioned contract or prior to the start of repair work, that the repairs will exceed the applicable Limit of Insurance, the Companies must either complete the recommended repairs or pay that Limit of Insurance upon such determination. If the aforementioned determination is made during the course of repair work and the Companies have begun making payments for the work performed, the Companies must either complete the recommended repairs or pay only the remaining portion of the applicable Limit of Insurance upon such determination. The most the Companies will pay for the total of all Sinkhole Loss, including **Building** and land stabilization and foundation repair, is the applicable Limit of Insurance on the affected **Building**.

The stabilization and all other repairs to the Covered Property must be completed within 12 months after entering into the contract for the performance of these repairs, unless:

- 1) There is a mutual agreement between the Insured and the Companies;
- 2) The claim is involved with the neutral evaluation process;
- 3) The claim is in litigation; or
- 4) The claim is under appraisal or mediation.

b. Sinkhole Loss does not include:

- 1) Sinking or collapse of land into man-made underground cavities; or
- 2) Earthquake.

c. With respect to a claim for alleged Sinkhole Loss, the following provision is added:

Following receipt by the Companies of a report from a professional engineer or professional geologist on the cause of loss and recommendations for land stabilization and repair of property, or if the Companies deny the claim, the Companies will notify the Insured of his right to participate in a neutral evaluation program administered by the Florida Department of Financial Services (hereinafter referred to as the Department). For alleged Sinkhole Loss to commercial residential or farm residential properties, this program applies instead of any mediation procedure set forth elsewhere in this policy, but does not invalidate the Appraisal Condition.

Either party may file a request with the Department for neutral evaluation; the other party must comply with such request. The Companies will pay reasonable costs associated with the neutral evaluation, regardless of which party makes the request. But if a party chooses to hire a court reporter or stenographer to contemporaneously record and document the

neutral evaluation, that party must bear the costs of those services. The neutral evaluator will be selected from a list maintained by the Department. The recommendation of the neutral evaluator will not be binding on either party.

Participation in the neutral evaluation program does not change the Insured's right to file suit against the Companies, except that the time for filing suit is extended for a period of 60 days following the conclusion of the neutral evaluation process or five years, whichever is later.

d. Coverage for Sinkhole Loss does not increase the applicable Limit of Insurance. Even if loss or damage qualifies under, or includes, both Catastrophic Ground Cover Collapse (addressed elsewhere) and Sinkhole Loss, only one Limit of Insurance will apply to such loss or damage.

e. The following provision is added to the Duties In The Event Of Loss or Damage Condition:

A claim for Sinkhole Loss, including but not limited to initial, supplemental and reopened claims is barred unless notice of claim is provided to the Companies in accordance with the terms of this policy within two years after the Insured knew or reasonably should have known about the Sinkhole Loss.

The following definitions are added with respect to the coverage provided for Sinkhole loss:

1) "Structural damage" means a covered **Building**, regardless of the date of its construction, has experienced the following:

- a) Interior floor displacement or deflection in excess of acceptable variances as defined in ACI 117-90 or the Florida Building Code, which results in settlement related damage to the interior such that the interior **Building** structure or members become unfit for service or represent a safety hazard as defined within the Florida Building Code;
- b) Foundation displacement or deflection in excess of acceptable variances as defined in ACI 318-95 or the Florida Building Code, which results in settlement related damage to the "primary structural members" or "primary structural systems" and that prevents those members or systems from supporting the loads and forces they were designed to support to the extent that stresses in those "primary structural members" or "primary structural systems" exceed one and one-third the nominal strength allowed under the Florida Building Code for new buildings of similar structure, purpose, or location;
- c) Damage that results in listing, leaning, or buckling of the exterior load bearing walls or other vertical "primary structural members" to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base as defined within the Florida Building Code;
- d) Damage that results in the building, or any portion of the **Building** containing "primary structural members" or "primary structural systems", being significantly likely to imminently collapse because of the movement or instability of the ground within the influence zone of the supporting ground within the sheer plane necessary for the purpose of supporting such **Building** as defined within the Florida Building Code; or
- e) Damage occurring on or after October 15, 2005, that qualifies as substantial structural damage as defined in the Florida Building Code.

2) "Primary structural member" means a structural element designed to provide support and stability for the vertical or lateral loads of the overall structure.

3) "Primary structural system" means an assemblage of "primary structural members".

f. If the Companies deny the claim for Sinkhole Loss without performing testing under section 627.7072, Florida Statutes, the Insured may demand testing by communicating such demand to the Companies in writing within 60 days after the Insured receives the Companies' denial of the claim. The Insured is responsible for 50% of the testing costs, or \$2,500, whichever is less. If the Companies' professional engineer or geologist provides written certification, pursuant to section 627.7073, that there is sinkhole loss, the Companies will reimburse the Insured for the testing costs.

g. The Insured may not accept a rebate from any person performing repairs for Sinkhole Loss. If the Insured receives a rebate, coverage under this Policy is void and the Insured must refund the amount of the rebate to the Companies.

h. If the Companies deny the claim for Sinkhole Loss upon receipt of written certification from a professional engineer or geologist, pursuant to section 627. 7073, that there is no Sinkhole loss or that the cause of the damage was not Sinkhole activity, and if the Sinkhole claim was submitted without good faith grounds for submitting such claim, the Insured shall reimburse the Companies for 50% of the actual costs of the analyses and services provided under sections 627.7072 and 627.7073, or \$2,500, whichever is less. The Insured is not required to pay such reimbursement unless the Insured requested the analysis and services and the Companies, before ordering the analysis, informed the Insured in writing of the potential for reimbursement and gave the Insured the opportunity to withdraw the claim.

i. As a precondition to accepting payment for Sinkhole loss, the Insured must file with the county clerk of court, a copy of any Sinkhole report regarding the property which was prepared on behalf or at the Insured's request. The Insured will bear the cost of filing and recording the sinkhole report.

# **U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC) ADVISORY NOTICE TO POLICYHOLDERS**

**PLEASE READ THIS NOTICE CAREFULLY.**

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC.

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of national emergency. OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations and narcotics traffickers as Specially Designated Nationals. This list can be located on the United States Treasury's web site: <http://www.treasury.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments or premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.



**APPLICABLE LAW (U.S.A.)**

This Insurance shall be subject to the applicable state law to be determined by the court of competent jurisdiction as determined by the provisions of the Service of Suit Clause (U.S.A.)

14/09/2005

LMA5021

Form approved by Lloyd's Market Association

#### **SANCTION LIMITATION AND EXCLUSION CLAUSE**

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

15/09/10

LMA3100

# PROPERTY LOSS NOTICE

DATE (MM/DD/YYYY)

AGENCY	INSURED LOCATION CODE	DATE OF LOSS AND TIME	AM
	PM		
	PROPERTY / HOME POLICY		
	CARRIER	NAIC CODE	
CONTACT NAME:	POLICY NUMBER		
PHONE (A/C, No, Ext):			
FAX (A/C, No):	FLOOD POLICY		
E-MAIL ADDRESS:	CARRIER	NAIC CODE	
CODE:	SUBCODE:		
AGENCY CUSTOMER ID:	POLICY NUMBER		
	WIND POLICY		
	CARRIER	NAIC CODE	
	POLICY NUMBER		

## INSURED

NAME OF INSURED (First, Middle, Last)			INSURED'S MAILING ADDRESS		
DATE OF BIRTH	FEIN (if applicable)	MARITAL STATUS / CIVIL UNION (if applicable)			
PRIMARY PHONE # <input type="checkbox"/> HOME <input type="checkbox"/> BUS <input type="checkbox"/> CELL	SECONDARY PHONE # <input type="checkbox"/> HOME <input type="checkbox"/> BUS <input type="checkbox"/> CELL		PRIMARY E-MAIL ADDRESS:		
			SECONDARY E-MAIL ADDRESS:		
NAME OF SPOUSE (First, Middle, Last) (if applicable)			SPOUSE'S MAILING ADDRESS (if applicable)		
DATE OF BIRTH	FEIN (if applicable)	MARITAL STATUS / CIVIL UNION (if applicable)			
PRIMARY PHONE # <input type="checkbox"/> HOME <input type="checkbox"/> BUS <input type="checkbox"/> CELL	SECONDARY PHONE # <input type="checkbox"/> HOME <input type="checkbox"/> BUS <input type="checkbox"/> CELL		PRIMARY E-MAIL ADDRESS:		
			SECONDARY E-MAIL ADDRESS:		

## CONTACT

CONTACT INSURED					
NAME OF CONTACT (First, Middle, Last)			CONTACT'S MAILING ADDRESS		
PRIMARY PHONE # <input type="checkbox"/> HOME <input type="checkbox"/> BUS <input type="checkbox"/> CELL	SECONDARY PHONE # <input type="checkbox"/> HOME <input type="checkbox"/> BUS <input type="checkbox"/> CELL				
WHEN TO CONTACT			PRIMARY E-MAIL ADDRESS:		
			SECONDARY E-MAIL ADDRESS:		

## LOSS

LOCATION OF LOSS				POLICE OR FIRE DEPARTMENT CONTACTED			
STREET:							
CITY, STATE, ZIP:				REPORT NUMBER			
COUNTRY:							
DESCRIBE LOCATION OF LOSS IF NOT AT SPECIFIC STREET ADDRESS:							
KIND OF LOSS	FIRE	LIGHTNING	FLOOD	PROBABLE AMOUNT ENTIRE LOSS			
	THEFT	HAIL	WIND				
DESCRIPTION OF LOSS & DAMAGE (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)							
REPORTED BY				REPORTED TO			

AGENCY CUSTOMER ID: \_\_\_\_\_

**REMARKS**

**APPLICABLE IN ALABAMA**

Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or who knowingly presents false information in an application for insurance is guilty of a crime and may be subject to restitution fines or confinement in prison, or any combination thereof.

**APPLICABLE IN ALASKA**

A person who knowingly and with intent to injure, defraud, or deceive an insurance company files a claim containing false, incomplete, or misleading information may be prosecuted under state law.

**APPLICABLE IN ARIZONA**

For your protection, Arizona law requires the following statement to appear on this form. Any person who knowingly presents a false or fraudulent claim for payment of a loss is subject to criminal and civil penalties.

**APPLICABLE IN ARKANSAS, DELAWARE, KENTUCKY, LOUISIANA, MAINE, MICHIGAN, NEW JERSEY,  
NEW MEXICO, NEW YORK, NORTH DAKOTA, PENNSYLVANIA, RHODE ISLAND, SOUTH DAKOTA,  
TENNESSEE, TEXAS, VIRGINIA, AND WEST VIRGINIA**

Any person who knowingly and with intent to defraud any insurance company or another person, files a statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact, material thereto, commits a fraudulent insurance act, which is a crime, subject to criminal prosecution and [NY: substantial] civil penalties. In LA, ME, TN, and VA, insurance benefits may also be denied.

**APPLICABLE IN CALIFORNIA**

For your protection, California law requires the following to appear on this form: Any person who knowingly presents a false or fraudulent claim for payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison.

**APPLICABLE IN COLORADO**

It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policy holder or claimant for the purpose of defrauding or attempting to defraud the policy holder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

**APPLICABLE IN THE DISTRICT OF COLUMBIA**

Warning: It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits, if false information materially related to a claim was provided by the applicant.

**APPLICABLE IN FLORIDA**

Pursuant to S. 817.234, Florida Statutes, any person who, with the intent to injure, defraud, or deceive any insurer or insured, prepares, presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains any false, incomplete, or misleading information concerning any fact or thing material to the claim commits a felony of the third degree, punishable as provided in S. 775.082, S. 775.083, or S. 775.084, Florida Statutes.

**APPLICABLE IN HAWAII**

For your protection, Hawaii law requires you to be informed that presenting a fraudulent claim for payment of a loss or benefit is a crime punishable by fines or imprisonment, or both.

**APPLICABLE IN IDAHO**

Any person who knowingly and with the intent to injure, defraud, or deceive any insurance company files a statement of claim containing any false, incomplete or misleading information is guilty of a felony.

**APPLICABLE IN INDIANA**

A person who knowingly and with intent to defraud an insurer files a statement of claim containing any false, incomplete, or misleading information commits a felony.

**APPLICABLE IN KANSAS**

Any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act.

**APPLICABLE IN MARYLAND**

Any person who knowingly or willfully presents a false or fraudulent claim for payment of a loss or benefit or who knowingly or willfully presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

**APPLICABLE IN MINNESOTA**

A person who files a claim with intent to defraud or helps commit a fraud against an insurer is guilty of a crime.

**APPLICABLE IN NEVADA**

Pursuant to NRS 686A.291, any person who knowingly and willfully files a statement of claim that contains any false, incomplete or misleading information concerning a material fact is guilty of a felony.

**APPLICABLE IN NEW HAMPSHIRE**

Any person who, with purpose to injure, defraud or deceive any insurance company, files a statement of claim containing any false, incomplete or misleading information is subject to prosecution and punishment for insurance fraud, as provided in RSA 638:20.

**APPLICABLE IN OHIO**

Any person who, with intent to defraud or knowing that he/she is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud.

**APPLICABLE IN OKLAHOMA**

WARNING: Any person who knowingly and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

**APPLICABLE IN WASHINGTON**

It is a crime to knowingly provide false, incomplete, or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.