

STATE OF VERMONT

SUPERIOR COURT
FRANKLIN UNIT

CIVIL DIVISION
DOCKET NO. 230-9-20 Frev

HUNTINGTON INGALLS INDUSTRIES, INC.,)
and HUNTINGTON INGALLS INDUSTRIES)
RISK MANAGEMENT LLC,)

Plaintiffs,)

v.)

ACE AMERICAN INSURANCE COMPANY;)
BERKSHIRE HATHAWAY SPECIALTY)
INSURANCE COMPANY; LLOYD'S)
UNDERWRITER SYNDICATE NO. 1414 ASC;)
LLOYD'S UNDERWRITER SYNDICATE NO.)
0510 KLN; LLOYD'S UNDERWRITER)
SYNDICATE NO. 1880 TMKS; LLOYD'S)
UNDERWRITER SYNDICATE NO. 1967)
WRB; ENDURANCE ASSURANCE)
CORPORATION; CHUBB GLOBAL)
MARKETS PROPERTY LIRMA A2302;)
BEAZLEY PROPERTY CONSORTIUM)
95892020; LLOYD'S UNDERWRITER)
SYNDICATE NO. 0033 HIS; LLOYD'S)
UNDERWRITER SYNDICATE NO. 2987)
BRIT; HAMILTON INSURANCE DAC;)
LLOYD'S UNDERWRITER SYNDICATE NO.)
4000 HAM; STARR SURPLUS LINES)
INSURANCE COMPANY; LEX-LONDON;)
INTERSTATE FIRE AND CASUALTY)
COMPANY; WESTPORT INSURANCE)
CORPORATION; ZURICH AMERICAN)
INSURANCE COMPANY; LLOYD'S)
UNDERWRITER SYNDICATE NO. 1221 HIG;)
SCOR SE; PARTNER REINSURANCE)
EUROPE SE; ASPEN SPECIALTY)
INSURANCE COMPANY; XL INSURANCE)
AMERICA; LLOYD'S UNDERWRITER)
SYNDICATE NO. 1036 COF; TOKIO MARINE)
AMERICA INSURANCE COMPANY; HDI)
GLOBAL SE; LANCASHIRE INSURANCE)
COMPANY (UK) LIMITED, LIRMA 10205;)
AXIS REINSURANCE COMPANY;)
HOUSTON CASUALTY COMPANY (UK)
BRANCH), LIRMA H5100; LLOYD'S)
UNDERWRITER SYNDICATE NO. 2791)

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Langrock
Sperry
& Wool, LLP

MAP; AVIVA INSURANCE LIMITED, LIRMA)
V2001; and LLOYD'S UNDERWRITER)
SYNDICATE NO. 1200 AMA;)
))
Defendants.)

COMPLAINT FOR DECLARATORY RELIEF AND DEMAND FOR JURY TRIAL

Plaintiffs Huntington Ingalls Industries, Inc. ("HII") and Huntington Ingalls Industries Risk Management LLC ("HIIRM") (collectively, "the HII entities") bring this suit against defendants ACE American Insurance Company, Berkshire Hathaway Specialty Insurance Company, Lloyd's Underwriter Syndicate No. 1414 ASC, Lloyd's Underwriter Syndicate No. 0510 KLN, Lloyd's Underwriter Syndicate No. 1880 TMKS, Lloyd's Underwriter Syndicate No. 1967 WRB, Endurance Assurance Corporation, Chubb Global Markets Property LIRMA A2302, Beazley Property Consortium 95892020, Lloyd's Underwriter Syndicate No. 0033 HIS, Lloyd's Underwriter Syndicate No. 2987 BRIT, Hamilton Insurance DAC, Lloyd's Underwriter Syndicate No. 4000 HAM, Starr Surplus Lines Insurance Company, Lex-London, Interstate Fire and Casualty Company, Westport Insurance Corporation, Zurich American Insurance Company, Lloyd's Underwriter Syndicate No. 1221 HIG, SCOR SE, Partner Reinsurance Europe SE, Aspen Specialty Insurance Company, XL Insurance America, Lloyd's Underwriter Syndicate No. 1036 COF, Tokio Marine America Insurance Company, HDI Global SE, Lancashire Insurance Company (UK) Limited, LIRMA L0205, AXIS Reinsurance Company, Houston Casualty Company (UK Branch), LIRMA H5100, Lloyd's Underwriter Syndicate No. 2791 MAP, Aviva Insurance Limited, LIRMA V2001, and Lloyd's Underwriter Syndicate No. 1200 AMA (collectively, "the Reinsurers") and allege as follows:

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NATURE OF THIS LAWSUIT

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1. Through its three business divisions, HII is the country's largest military shipbuilding company and a provider of professional services to partners in government and industry. For more than a century, HII's shipbuilding divisions have built more ships in more ship classes than any other U.S. naval shipbuilder. HII also supports national security missions around the world. HII employs more than 42,000 people both domestically, primarily at its shipyards in Virginia and Mississippi, and internationally.

2. Like thousands of other businesses across the country, HII has suffered, and continues to suffer, substantial financial losses as a result of SARS-CoV-2, COVID-19, the subsequent actions and orders of government authorities, the need to comply with guidance from the Centers for Disease Control and Prevention ("CDC"), and the need to mitigate its losses and damage. Specifically, as a defense contractor, HII is deemed part of the country's "critical infrastructure" by the Department of Homeland Security. Therefore, while many businesses around the country have closed their doors, HII has, as required, continued its operations despite the certain presence of SARS-CoV-2 at its facilities. However, HII has suffered substantial delays in its operations due to, among other things, the need to modify and stagger work to reduce crowding and achieve social distancing, extensive sanitization and cleaning at its facilities to comply with CDC guidance and government orders, the daily unavailability of dozens of employees because of illness or CDC-required quarantine due to exposure to SARS-CoV-2, and numerous other precautions taken at the direction of government authorities and the CDC that affect the employees' ability to work. Although the disruption is not limited to HII's shipbuilding business, HII's shipbuilding businesses have been, and continue to be, particularly impacted. Because shipbuilding is a highly synchronized process, the delays that HII is suffering today are likely to have ripple effects for years.

3. HII purchased a property insurance program, consisting of a Global Property Insurance policy issued by HIIRM, HII's captive insurance subsidiary, and reinsurance policies sold by the Reinsurers, for the express purpose of protecting it against losses such as those associated with SARS-CoV-2 and COVID-19. These policies are "all-risk" policies that contain time element coverage extensions including business interruption and extra expense. As the Reinsurers are aware, "all-risk" commercial property policies cover all risks of any kind or description, unless specifically excluded. Unlike "enumerated perils" property insurance, which covers only specified causes of loss, all-risk property insurance covers even unprecedented and unanticipated risks of loss, thereby providing consumers with comfort that all possible risks of loss are covered, unless specifically excluded. Due to the breadth of coverage, the HII entities paid a substantial premium for this type of insurance.

4. HII therefore naturally turned to its commercial property and business interruption insurers, including the Reinsurers, for coverage for its financial losses suffered as a result of SARS-CoV-2, COVID-19, and associated actions and orders of civil authorities (collectively, for convenience, the "Pandemic events"). However, instead of agreeing to pay for HII's insured losses, the Reinsurers have reserved their rights to deny coverage, and appear to be taking the position that their policies do not cover these losses. The HII entities are informed and believe, and on that basis allege, that the Reinsurers have publicly stated and taken the position that the presence of SARS-CoV-2 at a property does not constitute "direct physical loss or damage to property," and that there is no "direct physical loss or damage to property" unless tangible property has been structurally altered.

5. The Reinsurers are incorrect in their positions that coverage is not afforded under their policies for HII's losses. The Reinsurers promised to provide coverage for financial losses attributable to "direct physical loss of or damage to property" unless an exclusion clearly

and conspicuously applied as a bar to coverage. As court decisions and secondary authorities from across the country have recognized, the presence of hazardous or noxious substances, such as SARS-CoV-2 (the virus that causes COVID-19) in a building's airspace and on or around property constitutes "direct physical loss of or damage to property." Further, even though the insurance industry has employed a standard-form "virus" exclusion since 2006 and has known of the risk of pandemics for years, the Reinsurers sold the policies at issue without any exclusions for financial losses attributable to viruses, communicable diseases, or pandemics. In sum, in light of the "all-risk" coverage provided by the policies, the presence of SARS-CoV-2 at HII's facilities, and the lack of any policy language clearly excluding coverage for physical loss or damage caused by virus, the Reinsurers' reservations are incorrect.

6. By this lawsuit, the HII entities seek a declaration that the property loss or damage, business interruption, extra expense, interruption by civil or military authority, contingent business interruption, extra expense, and other losses suffered by HII as a result of the Pandemic events are covered under the Reinsurance policies.

II. PARTIES, JURISDICTION, AND VENUE

A. Plaintiffs

7. HII is a Delaware corporation with its principal place of business located in Newport News, Virginia.

8. HIIRM is a Vermont corporation with its principal place of business located in Burlington, Vermont. HIIRM is a wholly owned subsidiary of HII.

B. Defendants

9. The HII entities are informed and believe, and on that basis allege, that ACE American Insurance Company ("ACE") is a Pennsylvania corporation licensed to do business,

and doing business, in the State of Vermont. ACE is a member of the Chubb Group of Insurance Companies.

10. The HII entities are informed and believe, and on that basis allege, that Berkshire Hathaway Specialty Insurance Company (“Berkshire”) is a Nebraska corporation licensed to do business, and doing business, in the State of Vermont.

11. The HII entities are informed and believe, and on that basis allege, that Endurance Assurance Corporation is a Delaware corporation licensed to do business, and doing business, in the State of Vermont. Endurance is a member of the Sompo International group of insurance and reinsurance companies.

12. The HII entities are informed and believe, and on that basis allege, that Starr Surplus Lines Insurance Company is an Illinois corporation authorized to do business, and doing business, in the State of Vermont as a surplus lines writer. Starr is a subsidiary of C. V. Starr & Co., Inc.

13. The HII entities are informed and believe, and on that basis allege, that Hamilton Insurance DAC (“Hamilton”) is an Irish corporation authorized to transact business in the State of Vermont. Hamilton is a wholly owned subsidiary of Hamilton Insurance Group Ltd.

14. The HII entities are informed and believe, and on that basis allege, that Lex-London is an English surplus lines insurance company authorized to do business, and doing business, in the State of Vermont. Lex-London is a division of AIG UK, Limited and is a member of the AIG group of insurers, one of the largest insurance groups in the world.

15. The HII entities are informed and believe, and on that basis allege, that Interstate Fire and Casualty Co. is an Illinois corporation licensed to do business, and doing business, in the State of Vermont as a surplus lines writer. Interstate is a wholly owned subsidiary of

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Fireman's Fund Insurance Company, which in turn is a wholly owned subsidiary of Allianz Global Risks U.S. Insurance Company.

16. The HII entities are informed and believe, and on that basis allege, that Westport Insurance Corporation is a Missouri corporation licensed to do business, and doing business, in the state of Vermont. Westport is a part of the Swiss Re Group of insurance companies.

17. The HII entities are informed and believe, and on that basis allege, that Zurich American Insurance Company is an Illinois corporation licensed to do business, and doing business, in the State of Vermont. It is a member of the Zurich Insurance Group of insurance companies.

18. The HII entities are informed and believe, and on that basis allege, that SCOR SE is a French corporation authorized to transact business, and transacting business, in the State of Vermont.

19. The HII entities are informed and believe, and on that basis allege, that Partner Reinsurance Europe Se is an Irish corporation authorized to transact business, and transacting business, in the State of Vermont. It is a subsidiary of PartnerRe Limited.

20. The HII entities are informed and believe, and on that basis allege, that Aspen Specialty Insurance Company is a North Dakota corporation licensed to do business, and doing business, in the State of Vermont as a surplus lines writer. It is a wholly-owned subsidiary of Aspen Insurance Holdings Limited.

21. The HII entities are informed and believe, and on that basis allege, that XL Insurance America is a Delaware corporation licensed to do business, and doing business, in the State of Vermont.

22. The HII entities are informed and believe, and on that basis allege, that Tokio Marine America Insurance Company is a New York corporation licensed to do business, and doing business, in the State of Vermont.

23. The HII entities are informed and believe, and on that basis allege, that HDI Global SE is a German corporation authorized to transact business, and transacting business, in the State of Vermont.

24. The HII entities are informed and believe, and on that basis allege, that Lancashire Insurance Company (UK) Limited is a United Kingdom corporation authorized to transact business, and transacting business, in the State of Vermont.

25. The HII entities are informed and believe, and on that basis allege, that AXIS Reinsurance Company is a New York Corporation licensed to do business, and doing business, in the State of Vermont.

26. The HII entities are informed and believe, and on that basis allege, that Houston Casualty Company (UK Branch) is a United Kingdom corporation authorized to transact business, and transacting business, in the State of Vermont.

27. The HII entities are informed and believe, and on that basis allege, that Aviva Insurance Limited is a United Kingdom corporation authorized to transact business, and transacting business, in the State of Vermont.

28. The HII entities are informed and believe, and on that basis allege, that Lloyd's Underwriter Syndicate No. 1414 ASC, Lloyd's Underwriter Syndicate No. 0510 KLN, Lloyd's Underwriter Syndicate No. 1880 TMKS, Lloyd's Underwriter Syndicate No. 1967 WRB, Chubb Global Markets Property LIRMA A2302, Beazley Property Consortium 95892020, Lloyd's Underwriter Syndicate No. 0033 HIS, Lloyd's Underwriter Syndicate No. 2987 BRIT, Lloyd's Underwriter Syndicate No. 4000 HAM, Lloyd's Underwriter Syndicate No. 1221 HIG,

Lloyd's Underwriter Syndicate No. 1036 COF, Lloyd's Underwriter Syndicate No. 2791 MAP, and Lloyd's Underwriter Syndicate No. 1200 AMA (collectively, the "Lloyd's Underwriters"), are syndicates and their members that have underwritten and subscribed to reinsurance property policies covering HII, and who are obligated under the policies to provide the insurance afforded by the policies. The HII entities are informed and believe and on that basis allege that each of these syndicates transact business, and sell insurance covering risks, in the State of Vermont.

29. The HII entities are informed and believe, and on that basis allege, that the Lloyd's Underwriters are members of the Lloyd's of London insurance market, located in London, England. Lloyd's "is a market in which independent insurance underwriters join together in syndicates to sell insurance, mainly through brokers, under the umbrella of the Lloyd's brand name." Her Majesty's Revenue & Customs internal manual, *Lloyd's Manual* (Sept. 25, 2019), <https://www.gov.uk/hmrc-internal-manuals/lloyds/llm1010> (visited July 15, 2020).

C. Jurisdiction and Venue

30. This Court has personal jurisdiction over the Reinsurers pursuant to 12 V.S.A. section 855 because each of the Reinsurers is licensed to do business in Vermont, has sufficient minimum contacts in Vermont, and/or has intentionally availed itself of the markets within Vermont through its business activities, such that exercise of jurisdiction by this Court is proper. In addition, to the extent any Reinsurer is not licensed to conduct business in the state of Vermont, that Reinsurer's policy provides that the Reinsurer "will submit to the jurisdiction of a court of competent jurisdiction within the United States."

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31. Jurisdiction is proper in this Court pursuant to 4 V.S.A. section 31. This Court has the power to award the declarative relief sought by this complaint pursuant to 12 V.S.A. section 4711.

32. Venue is proper in the Court pursuant to 12 V.S.A. section 402(a).

III. FACTUAL BACKGROUND

A. The Property Insurance Policy

33. HIIRM issued HII Global Property Insurance Policy Number 257-IPR0020 for the policy period of March 15, 2020, to March 15, 2021 (the “Property Policy”). The Property Policy has a limit of liability of \$1,500,000,000 per Occurrence, subject to a \$2,000,000 per Occurrence deductible.

34. The Property Policy is an “all risk” property insurance policy. It states: “This Policy insures against all risks of direct physical loss or damage to property described herein occurring during the term of insurance” except as except those plainly, clearly, conspicuously, and expressly excluded. The wording “direct physical loss or damage to property” is not defined in the Property Policy. The Property Policy insures HII’s interest in all “real and personal property while such property is located within the territorial limits of this Policy” The territorial limit of the policy is “[w]orldwide with the exception of any country or jurisdiction which is subject to trade or other economic sanctions or embargo of the United States of America at the time of loss.”

35. The Property Policy also insures “[l]oss due to the necessary interruption of business conducted by the Insured, whether total or partial including all interdependencies between or among companies owned or operated by the Insured caused by physical loss or damage insured herein during the term of this Policy to real and/or personal property. . . .” The Property Policy provides this coverage to the extent HII is “wholly or partially unable to

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produce goods or continue normal business operations or services during the Period of Recovery.”

36. The Property Policy also insures “[a]ny reasonable and necessary EXTRA EXPENSE incurred by the Insured in order to continue as nearly as practicable the normal operation of the Insured’s business following physical loss or damage insured herein during the term of this Policy to real and/or personal property” Extra Expense is defined as “the excess (if any) of the total cost incurred during the Period of Recovery chargeable to the operation of the Insured’s business, . . . , over and above the cost that would normally have been incurred to conduct the business during the same period had no loss or damage occurred.”

37. The Property Policy states that the Period of Recovery

1. Shall commence with the date of such loss or damage and shall not be limited by the date of expiration of this Policy;
2. 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; and
3. 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:
 - a) the date on which the liability of the Insurer for loss or damage would otherwise terminate; or
 - b) the date on which repair, replacement or rebuilding of such part of the property as has been damaged is actually completed and the Insured has resumed normal operations;

but in no event for more than 365 days thereafter from said later commencement date.

38. The Property Policy also contains several extensions of coverage, including Contingent Business Interruption/Contingent Extra Expense, Interruption by Civil or Military Authority, and Ingress/Egress.

39. Under the Contingent Business Interruption/Contingent Extra Expense coverage extension, the Property Policy insures loss resulting from or caused by physical loss or damage to

Property of the type insured at locations of direct or indirect suppliers of the Insured that prevents that supplier of goods and/or services to the Insured from rendering their goods and/or services, or property of the type insured at locations of direct or indirect customers of the Insured that prevents those customers of goods and/or services from the Insured from accepting the Insured's goods and/or services.

There is a sublimit on this coverage of \$150,000,000 per occurrence for contingent business interruption and extra expense resulting from damage to property at locations of direct suppliers and \$25,000,000 per occurrence for contingent business interruption and extra expense resulting from damage to property at locations of indirect suppliers.

40. The Interruption by Civil or Military Authority coverage extension states:

This Policy is extended to insure loss sustained when, as a direct result of physical loss or damage not excluded by this Policy to property of the type not excluded in this Policy occurring within 15 miles of the Insured's premises access to or from the Insured Location which is impaired by order of military or civil authority.

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There is a \$100,000,000 per occurrence sublimit for Civil or Military Authority coverage.

41. The Ingress/Egress coverage extension insures “loss sustained when, as a direct result of physical loss or damage not excluded by this Policy to property of the type not excluded in this Policy, ingress to or egress from, occurring within 15 miles of an Insured Location which is impaired.” There is a \$100,000,000 per occurrence sublimit for this coverage.

42. The Property Policy also “insures such necessary and reasonable expenses incurred for the purpose of reducing any loss under this Policy, but not to exceed the amount by which the loss under this Policy is thereby reduced.” It further provides:

This Policy covers the costs incurred for actions to temporarily protect or preserve insured property, provided such actions are reasonable and necessary due to actual, or to prevent threatened, insured physical loss or damage to such insured property. The Insurer shall pay the expenses so incurred including resulting Time Element loss.

43. The Property Policy does not include, and is not subject to, any exclusion for losses caused by or resulting from the spread of viruses, communicable diseases, or pandemics. Because losses caused by or resulting from viruses, communicable diseases, and pandemics are not expressly excluded under the Policy, these all constitute Covered Causes of Loss under the Property Policy.

44. The Property Policy states that the courts of the State of Vermont “will have exclusive jurisdiction over any and all differences and disputes of any nature arising [] out of, or as a result of this Policy, including all issues of coverage, payment, proof of loss or any other rights or obligations created by or arising out of this Policy, and whether based on contract, tort, bad faith or other legal theories.”

B. The Reinsurance Policies

45. HIIRM purchased policies to reinsure all its obligations under the terms of the Property Policy. Each of the Reinsurers issued or underwrote policies reinsuring a portion of HIIRM's obligations under the Property Policy. Each of the policies sold by the Reinsurers follows form to (that is, incorporates by reference) the Property Policy. The reinsurance policies, as well as their limits of liability and attachment points, include the following:

- a. ACE Policy Number GPA D3787906A 010, providing 20% of \$200,000,000 of reinsurance excess of deductibles and 3.7% of \$200,000,000 of reinsurance excess of \$350,000,000 ("the Ace Policy");
- b. Berkshire Policy Number 47-PRI-302335-05, providing 9.5% of \$200,000,000 of reinsurance excess of deductibles;
- c. Endurance Policy Number ARR10008792201, providing 5% of \$200,000,000 of reinsurance excess of deductibles;
- d. Lloyd's of London Policy Number B0509BOWPN2000087, providing 13% of \$200,000,000 of coverage excess of deductibles. Lloyd's Underwriter Syndicate No. 1414 ASC (3%), Lloyd's Underwriter Syndicate No. 0510 KLN (3.75%), Lloyd's Underwriter Syndicate No. 1880 TMKS (3.75%), and Lloyd's Underwriter Syndicate No. 1967 WRB (2.5%) underwrote and subscribed to this policy;
- e. Lloyds of London Policy Number B0509BOWPN2000288, providing 17% of \$200,000,000 of coverage excess of deductibles. Chubb Global Markets Property LIRMA A2302 (7%), Beazley Property Consortium 95892020 (6.66%), Lloyd's Underwriter Syndicate No. 0033 HIS (1.33657%), Lloyd's Underwriter Syndicate No. 2987 BRIT (0.0668235%), Hamilton Insurance DAC (0.417647%), Lloyd's Underwriter Syndicate No. 4000 HAM (0.417647%), and Starr Surplus Lines Insurance

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Company (7.5%) underwrote and subscribed to this coverage. The policy also provides 1.75% of \$200,000,000 or reinsurance excess of \$350,000,000. Lloyd's Underwriter Syndicate No. 1200 AMA underwrote and subscribed to this coverage.

f. Starr Policy Number SLSTPTY11278120, providing 7.5% of \$200,000,000 of reinsurance excess of deductibles and 2.5% of \$200,000,000 of reinsurance excess of \$350,000,000;

g. Lex-London Policy Number BOWPN2000088, providing 10% of \$700,000,000 of reinsurance excess of deductibles;

h. Interstate Policy Number RTX20011820, providing 5% of \$1,500,000,000 of reinsurance excess of deductibles;

i. Westport Policy Number NAP0453675 08, providing 2.5% of \$1,500,000,000 of reinsurance excess of deductibles;

j. Zurich Policy Number TOP 4503363-09, providing 8.5% of \$1,500,000,000 of reinsurance excess of deductibles ("the Zurich Policy");

k. Lloyd's of London Policy Number B0509BOWPN2000087, providing 14.5% of \$150,000,000 of reinsurance excess of \$200,000,000. Lloyd's Underwriter Syndicate No. 1221 HIG underwrote and subscribed to this policy;

l. SCOR SE Policy Number BOWPN2000090, providing 7% of \$150,000,000 of reinsurance excess of \$200,000,000;

m. Partner Reinsurance Europe SE Policy Number F515755, providing 6% of \$150,000,000 or reinsurance excess of \$200,000,000;

n. Aspen Specialty Insurance Company Policy Number PRA9LFD20, providing 1.67% of \$150,000,000 or reinsurance excess of \$200,000,000;

o. XL Insurance America Policy Number US00098872PR20A, providing 5% of

\$150,000,000 of reinsurance excess of \$200,000,000;

p. Lloyd's of London Policy Number B0509BOWPN2000087, providing 3% of \$500,000,000 of reinsurance excess of \$200,000,000. Lloyd's Underwriter Syndicate No. 1036 COF underwrote and subscribed to this policy;

q. Tokio Marine America Insurance Company Policy Number LCP 6480061-09, providing 3% of \$800,000,000 of reinsurance excess of \$200,000,000;

r. HDI Global SE Policy with the internal tracking number 01607403-2020, providing 10% of \$1,300,000,000 of reinsurance excess of \$200,000,000;

s. Lancashire Insurance Company (UK) Limited., LIRMA L0205 Policy No. B0509BOWPN2000297, providing 1.25% of \$100,000,000 of reinsurance excess of \$350,000,000;

t. AXIS Reinsurance Company Policy No. RAF644932-20, providing 2.5% of \$200,000,000 of reinsurance excess of \$350,000,000;

u. Endurance Assurance Corporation Policy No. ARR10010818203, providing 2.5% of \$200,000,000 of reinsurance excess of \$350,000,000;

v. Houston Casualty Company (UK Branch), LIRMA H5100 Policy No. B0509BOWPN2000294, providing 2.5% of \$200,000,000 of reinsurance excess of \$350,000,000;

w. Lloyd's of London Policy Number B0509BOWPN2000295, providing 2.5% of \$200,000,000 of reinsurance excess of \$350,000,000. Lloyd's Underwriter Syndicate No. 2791 MAP underwrote and subscribed to this policy; and

x. Aviva Insurance Limited Policy, LIRMA V2001 Policy No. B0509BOWPN2000296, providing 3.75% of \$200,000,000 of reinsurance excess of \$350,000,000.

These policies will be referred to collectively as “the Reinsurance Policies.”

46. Each of the Reinsurance Policies, other than the Ace Policy and the Zurich Policy, contains an endorsement stating that, in the event of a loss, the parties would execute an agreement providing that (i) the Reinsurers “shall assume all of the rights, obligations, and responsibilities of HII Risk Management LLC under the HII Property Policy with respect to the Claim, including, without limitation, the obligation to adjust the Claim and pay all loss covered in accordance with the HII Property Policy and the Reinsurance Contracts”; (ii) HII “shall be entitled to seek to recover any and all losses in connection with the Claim directly from the Interested Reinsurers”; and (iii) HII “shall have the right, and shall assume any right that HII Risk Management LLC would otherwise have, to take any and all steps necessary to enforce the Interested Reinsurers’ obligations in connection with a Claim under the HII Property Policy, the Reinsurance Contracts, and/or this Claims Agreement.” Therefore, HII has the right to bring this action directly against all the Reinsurers other than Ace and Zurich.

47. The HII entities are informed and believe, and on that basis allege, that when the Reinsurers sold HIIRM the Reinsurance Policies, they had known for over a decade that there had been standard-form exclusions available in the insurance marketplace that could exclude coverage for losses caused by viruses and pandemics, and that other insurers had included such exclusions in policies they sold. In fact, some or all of the Reinsurers or members of the group of insurers to which the Reinsurers belong had included such exclusions in the policies that they had sold to other insureds. Furthermore, while the Reinsurers did not include such exclusions in the policies at issue here, other reinsurers in HII’s property insurance program included such exclusions. Those other reinsurers are not parties to this action.

48. Additionally, well before the Reinsurers sold their policies to HIIRM, they knew or should have known of the possibility of a pandemic and the potential losses that could be

associated with a pandemic. There were many publicly available reports about the risks of pandemics and how they would affect both insurers and insureds in the months and years before the Reinsurers sold the Reinsurance Policies to HIIRM in March 2020. *See, e.g.*, “What the 1918 Flu Pandemic Can Teach Today’s Insurers,” *AIR* (Mar. 29, 2018), <https://www.air-worldwide.com/publications/air-currents/2018/What-the-1918-Flu-Pandemic-Can-Teach-Today-s-Insurers/> (“Even with today’s technology, a modern severe pandemic would cause substantive direct financial losses to the insurance community. In addition, indirect losses would be severe, most notably on the asset side of the balance sheet.”).

49. In fact, one insurance industry repository shows the proverbial “tip of the iceberg” about how much information was available to insurers regarding the risks of pandemics. The Insurance Library Association of Boston, founded in 1887, describes itself as “the leading resource for and provider of literature, information services, and quality professional education for the insurance industry and related interests.”

<http://insurancelibrary.org/about-us/>. The Association states on its website:

The past 20 years has seen the rise of a number of pandemics. Slate recently published an article on what has been learned about treating them in that time. We thought it might be apt for us to take a look back and see what the insurance industry has learned as well.

<http://insurancelibrary.org/pandemics-and-insurance/>. The Association lists more than 15 publications available to the insurance industry since at least since early 2007, long *before* the Reinsurers sold the Reinsurance Policies to HIIRM.

C. **The COVID-19 Pandemic and Ensuing Civil Authority Orders**

50. COVID-19 is a disease caused by a recently discovered virus known as SARS-CoV-2. The World Health Organization has named the virus and the resulting disease. As the World Health Organization (“WHO”) has stated:

Official names have been announced for the virus responsible for COVID-19 (previously known as “2019 novel coronavirus”) and the disease it causes. The official names are:

Disease

Coronavirus disease (COVID-19)

Virus

Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

[https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-\(covid-2019\)-and-the-virus-that-causes-it](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-(covid-2019)-and-the-virus-that-causes-it).

51. The first reported cases of COVID-19 in humans were diagnosed in or around December 2019 in Wuhan, the capital city of the Hubei Province in China. Since then, SARS-CoV-2 and COVID-19 have spread throughout the world, prompting the World Health Organization to declare a global pandemic. SARS-CoV-2 and COVID-19 have also spread throughout the United States.

52. As explained by the WHO,

Current evidence suggests that COVID-19 spreads between people through direct, indirect (through contaminated objects of surfaces) or close contact with infected people via mouth and nose secretions. These include saliva, respiratory secretions or secretion droplets. These are released from the mouth or nose when an infected person coughs, sneezes, speaks or sings, for

example. People who are in close contact (within 1 metre) with an infected person can catch COVID-19 when those infectious droplets get into their mouth, nose, or eyes.

...

People with the virus in their noses and throats may leave infected droplets on objects and surfaces (called fomites) when they sneeze, cough on, or touch surfaces, such as table, doorknobs, and handrails. Other people may become infected by touching those objects or surfaces, then touching their eyes, noses or mouths before cleaning their hands.

See “Q&A: How is COVID-19 transmitted?,” World Health Organization (July 9, 2020), available at <https://www.who.int/news-room/q-a-detail/q-a-how-is-covid-19-transmitted>.

53. Studies suggest that aerosolized droplets containing the SARS-CoV-2 virus are exhaled by normal breathing and can travel significant distances and stay suspended in air for hours until gravity ultimately forces them to the nearest surface. Studies further suggest that the SARS-CoV-2 virus can remain contagious on some surfaces for up to six days. Alex W.H. Chin, et al., “Stability of SARS-CoV-2 in different environmental conditions,” *The Lancet Microbe* (May 1, 2020), available at [https://www.thelancet.com/journals/lanmic/article/PIIS2666-5247\(20\)30003-3/fulltext?fbclid=IwAR2_eMGA2rP7V-P8NRXRLGvJWw1Fr56JTtL2uR1FxuX13483zooFVRExs3I](https://www.thelancet.com/journals/lanmic/article/PIIS2666-5247(20)30003-3/fulltext?fbclid=IwAR2_eMGA2rP7V-P8NRXRLGvJWw1Fr56JTtL2uR1FxuX13483zooFVRExs3I)

54. Another study, in connection with the Diamond Princess cruise, identified SARS-CoV-2 RNA on a variety of surfaces in cabins of both symptomatic and asymptomatic infected passengers up to 17 days after cabins were vacated. Leah F. Moriarty, *et al.*, “Public

Health Responses to COVID-19 Outbreaks on Cruise Ships – Worldwide, February-March 2020,” *CDC Morbidity and Mortality Weekly Report* (Mar. 27, 2020), available at <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6912e3-H.pdf>.

55. In a recently published study, researchers determined that “[a]irborne transmission of viable SARS-CoV-2 is likely and plays a critical role in the spread of COVID-19” and that for aerosol-based transmission, “measures such as physical distancing by 6 feet would not be helpful in an indoor setting” John A. Lednicky, et al., “Viable SARS-CoV-2 in the air of a hospital room 1 with COVID-19 patients,” (August 4, 2020), available at <https://www.medrxiv.org/content/10.1101/2020.08.03.20167395v1.full.pdf>.

56. In March 2020, in response to the Pandemic and the worldwide spread of SARS-CoV-2, civil authorities throughout the United States began issuing “stay home” and “shelter in place” quarantine orders and requiring the suspension of non-essential business operations (collectively, “Closure Orders”). For example, on March 24, 2020, Vermont Governor Philip B. Scott issued Addendum 6 to his March 19, 2020, Executive Order declaring a State of Emergency for the State of Vermont because of the issues caused by COVID-19. Addendum 6 “recognized the critical need to take steps to control outbreaks of COVID-19” and directed all Vermonters “to stay at home or in their place of residence, leaving only for essential reasons.” The Addendum also ordered that “all business and not-for-profit entities in the state shall suspend in-person business operations,” subject to certain exceptions. All businesses were ordered to “develop strategies, procedures and practices designed for strict adherence to CDC and VDH guidance to ensure recommended social distancing.” On March 23, 2020, Virginia Governor Ralph S. Northam issued Executive Order Number 53, which stated that “COVID-19 presents an ongoing threat to our communities,” stated that “the Virginia Department of Health reveals occurrences of the virus in every region of the Commonwealth,” imposed temporary

restrictions on a number of businesses, and ordered that all businesses “adhere to social distancing recommendations, enhanced sanitizing practices on common surfaces, and other appropriate workplace guidance from state and federal authorities while in operation.” One week later Governor Northam issued Executive Order 55, which mandated that “[a]ll individuals in Virginia shall remain at their place of residence” subject to certain exceptions. On March 24, 2020, Mississippi Governor Tate Reeves issued Executive Order 1463. This order stated that essential businesses “may operate at such level as necessary to provide such essential services,” but “shall take all reasonable measures to ensure compliance with the CDC and the Mississippi Department of Health recommendations and guidance to prevent the spread of COVID-19.” On April 1, 2020, Governor Reeves issued Executive Order No. 1466. This order stated that “the risk of spread of COVID-19 within Mississippi constitutes a public emergency that may result in substantial injury or harm to life, health and property within Mississippi” and that “all individuals currently living in the State of Mississippi are ordered to stay at home or in their place of residence” subject to certain exceptions. Since March 2020, many civil authorities, including the States of Virginia and Mississippi, have issued multiple orders, amendments to orders, and extensions to orders relating to SARS-CoV-2, COVID-19, and the pandemic.

57. As of April 29, 2020, 42 states had issued statewide “stay home” orders and three other states had issued such order for specific counties with the state.

58. On March 20, 2020, the Under Secretary of Defense, Ellen M. Lord, issued a memorandum stating that the “Defense Industrial Base (DIB) is identified as a Critical Infrastructure Sector by the Department of Homeland Security.”

<https://media.defense.gov/2020/Mar/22/2002268024/-1/-1/1/DEFENSE-INDUSTRIAL-BASE->

[ESSENTIAL-CRITICAL-INFRASTRUCTURE-WORKFORCE-MEMO.PDF](#) Vermont Superior Court

The memorandum further stated that workers in a critical infrastructure industry “have a special responsibility” to maintain their normal work schedules. Finally, the memorandum stated that everyone working in these industries “should follow guidance from the Centers for Disease Control and Prevention as well as State and local government officials regarding strategies to limit disease spread.” The Centers for Disease Control advised, among other things, that when critical infrastructure workers had exposure to a person with suspected or confirmed COVID-19, they should maintain six feet and practice social distancing in the workplace and the workspace should be cleaned and disinfected.

59. Because HII continued to provide its essential services and most employees were not able to perform their duties remotely, SARS-CoV-2 was inevitably present at HII’s facilities. For example, as of September 11, 2020, a total of 733 cases of COVID-19 had been reported at Ingalls Shipbuilding. To prevent the further spread of COVID-19 (and the accompanying diminution of work force), any HII employee who tests positive is quarantined, and any employee believed to be at risk for exposure is contacted and asked to self-quarantine.

IV. THE COVERAGE DISPUTE AND THE REINSURERS’ POSITIONS

60. SARS-CoV-2 has spread rapidly in the communities in which HII’s facilities are located. Because HII was required to continue to provide its essential services and most employees engaged in shipbuilding are not able to perform their duties remotely, SARS-CoV-2 was inevitably brought into HII’s facilities by its employees and contractors. As of September 11, 2020, more than 1,000 COVID-19 cases had been reported in employees who worked at HII’s two shipbuilding facilities, Newport News Shipbuilding and Ingalls Shipbuilding. Despite extensive efforts to screen through temperature checks, wellness screenings and employee education, many of these individuals first experienced symptoms while at work, or were present on HII’s property in the 48 hours before symptom onset, the time period during

which CDC reports that individuals are most likely to spread the virus. Notwithstanding all of the precautionary measures HII has taken pursuant to government orders and CDC guidance, which has changed frequently, there is no doubt of the presence of SARS-CoV-2 at both shipbuilding facilities (among other HII facilities)—in the air, on surfaces, and in and on individuals. To protect the safety and health of its employees, prevent the further spread of COVID-19 in the workforce, and comply with directives of government authorities and CDC guidance, any employee who tests positive is required to isolate and cannot return to work until the CDC required conditions are met (at least ten days out of work), and any employee believed to have been in close contact to a confirmed case of COVID-19 is asked to self-quarantine for a period of fourteen days or until cleared through several rounds of testing.

61. As a result of the Pandemic events, HII has sustained covered property damage and loss under the Property Policy. SARS-CoV-2 has been and is present at many, if not all, HII facilities. Because SARS-CoV-2 can adhere to surfaces of property for several days and linger in the air in buildings for several hours, the presence of SARS-CoV-2 on or around property amounts to “direct physical loss or damage to property” as that phrase is used in the Property Policy and the Reinsurance Policies. In fact, given the manner in which SARS-CoV-2 reportedly lingers in the air and on surfaces and its manner of transmission, and the desire to “flatten the curve,” HII’s premises were and are not capable of performing their essential functions at their intended capacities. Accordingly, the presence of SARS-CoV-2 substantially impaired the essential functioning of HII’s properties, constituting “direct physical loss or damage to property.”

62. HII also suffered additional covered losses as a result of the presence of SARS-CoV-2 and the Pandemic events, including:

- a) Business interruption losses as defined in the Property Policy, including

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losses due to delays in construction schedules. These business interruption losses were sustained due to the partial suspensions of business operations, including interdependencies between companies owned or operated by HII, resulting from the presence of SARS-CoV-2 and the resulting damage to property;

- b) “Reasonable and necessary Extra Expense,” including increased labor costs, to continue as near as practicable the normal operations of HII’s business;
- c) Business interruption and Extra Expense losses resulting from the presence of SARS-CoV-2 and the resulting damage to property at the locations of HII’s direct and indirect suppliers that prevented the suppliers from rendering their goods and/or services;
- d) Losses suffered as a result of Closure Orders that impaired access to or from any of HII’s locations; and
- e) Expenses incurred by HII to protect its properties from damage caused by the presence of SARS-CoV-2.

63. As of the date of filing of this Complaint, HII’s losses as a result of the presence of SARS-CoV-2 and the Pandemic events exceed the attachment point of each of the Reinsurers’ policies.

64. On April 15, 2020, HII sent a Notice of Loss to HIIRM advising it that HII had suffered and was continuing to suffer losses as a result of SARS-CoV-2 and the Pandemic. This notice was also provided to the Reinsurers.

65. To date, none of the Reinsurers has acknowledged coverage for HII’s losses. Instead, the Reinsurers have reserved their rights to deny coverage to the extent HII’s losses

“were not the direct result of physical loss or damage to property of the type not excluded by the Policy.” The HII entities are informed and believe, and on that basis allege, that the Reinsurers are taking, or have decided to take, the position that the presence of SARS-CoV-2 does not constitute “physical loss of or damage to property,” and that therefore HII has suffered no covered losses. For example, certain of the Reinsurers or their representatives have made the following public statements:

- The Chubb website contains a “Final – March 26, 2020” notice stating in part:

Business interruption insurance generally covers losses to your business’ income that result from disruption of your business.

The disruption must be caused by physical loss or damage to your property by a “covered peril.” The presence of an infectious agent or communicable disease at a location where there is covered property generally will not mean that property has suffered “physical loss or damage” under your policy. Generally, “physical loss or damage” means that the physical structure or physical characteristics of the property have been altered by a “covered peril”. Loss of use, or diminished value of property that has not been physically altered will not be considered “physical loss or damage.”

See https://www.chubb.com/microsites/covid19-resource-center/_assets/pdf/covid-commercial-property-policyholder-notice-4-1-2020.pdf (last visited August 14, 2020).

- In an Advisory Notice to Policyholders, Sompso stated: “[F]or coverage to apply there must be direct physical loss or damage to covered property from a peril not otherwise excluded. To the extent there is no direct physical loss or damage caused by COVID-

19, there would be no coverage under the Property Policy. Typically, there must be a distinct and demonstrable physical change to covered property necessitating some remedial action to demonstrate physical loss or damage.” <https://www.sompo-intl.com/wp-content/uploads/New-York-MMP-PN-0021-0320-MMP-COVID-19-Advisory-Notice-to-Policyholders-Final-Clean-3-18-20-4.pdf>;

- On its website, Starr informs its insureds: “The presence, or the suspected or feared presence, of COVID-19 generally will not mean that property has suffered ‘physical loss or damage’ under your policy. Typically, ‘physical loss or damage’ means that the physical structure or physical characteristics of the property have been altered as a result of the ‘covered peril.’ Loss of use, loss of access, or the diminished value of property that has not been physically altered will typically not be considered ‘physical loss or damage.’” <https://www.starrcompanies.com/coronavirus-advisory-faq/coronavirus-advisory-ok>;
- Zurich’s chief financial officer, George Quinn, has stated that virtually all—more than 99%—of its policies do not provide business interruption coverage for COVID-19. <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/business-interruption-makes-up-bulk-of-zurich-s-covid-19-claims-bill-says-cfo-58622550z>;
- Swiss Re’s group chief financial officer, John Dacey, has stated that few business interruption losses will be covered by its reinsurance policies due to a lack of physical damage to property. <https://www.reinsurancene.ws/coronavirus-not-an-issue-for-swiss-re-industry-cfo-john-dacey/>;
- In its first-quarter 2020 financial results conference call, AIG stated that it is not expecting to pay business interruption losses on most of its property policies because

they either contain a virus exclusion or “otherwise require a showing that the virus caused direct physical loss or damage that was the cause of the business interruption. We are confident these exclusions and related terms and conditions will be upheld should they be challenged.” <https://www.fool.com/earnings/call-transcripts/2020/05/05/american-international-group-aig-q1-2020-earnings.aspx>.

66. The crux of the Reinsurers’ position appears to be that HII did not sustain “direct physical loss of” or “damage to” property within the meaning of their policies because no property was physically destroyed or disfigured. But there is no language in any of the policies requiring this narrow construction. Under any reasonable interpretation, the terms “direct physical loss of” or “damage to” property are much broader and would include detrimental physical effects, including those caused by the Closure Orders, which altered and impaired the functioning of the tangible, material dimensions of HII’s property. This is especially true when, as here, property has been rendered partially or wholly nonfunctional for its intended purpose as a result of the presence of SARS-CoV-2, the Pandemic, and the Closure Orders, and when HII has had to take, and will need to continue to take, steps that involve physical alterations to its insured locations, including installation of transmission-restricting barriers and devices and redesigns to accomplish physical spacing and distancing..

67. Moreover, the Reinsurers have known for decades that the contamination of property by a hazardous substance constitutes property damage, and certain of the Reinsurers (or their affiliated companies) have litigated and lost this issue. *See, e.g., AIU Ins. Co. v. Superior Court*, 51 Cal. 3d 807, 842 (1990) (“contamination of the environment satisfies” the requirement of property damage). *See also Western Fire Ins. Co. v. First Presbyterian Church*, 165 Colo. 34, 39-40 (1968) (direct physical loss when gasoline contaminated church building making it dangerous to use); *Farmers Ins. Co. v. Trutanich*, 123 Or. App. 6, 9-11 (1993) (odor

from methamphetamine “cooking” constituted “direct physical loss”); *Sentinel Mgt. Co. v. New Hampshire Ins. Co.*, 563 N.W.2d 296, 300 (Minn. Ct. App. 1997) (“Although asbestos contamination does not result in tangible injury to the physical structure of a building, a building's function may be seriously impaired or destroyed and the property rendered useless by the presence of contaminants. . . . Under these circumstances, we must conclude that contamination by asbestos may constitute a direct, physical loss to property under an all-risk insurance policy.”); *Oregon Shakespeare Festival Ass’n v. Great Am. Ins. Co.*, 2016 WL 3267247, at *9 (D. Ore. June 7, 2016) (smoke infiltration in theatre caused direct property loss or damage by causing property to be “uninhabitable and unusable for its intended purpose”); *Gregory Packaging, Inc. v. Travelers Prop. Cas. Co.*, 2014 WL 6675934 (D.N.J. Nov. 25, 2014) (closure of facility because of accidentally-released ammonia; while “structural alteration provides the most obvious sign of physical damage, . . . property can sustain physical loss or damage without experiencing structural alteration”); *Port Auth. of New York & New Jersey v. Affiliated FM Ins. Co.*, 311 F.3d 226, 236 (3d Cir. 2002) (“When the presence of large quantities of asbestos in the air of a building is such as to make the structure uninhabitable and unusable, then there has been a distinct [physical] loss to its owner.”).

68. In addition, numerous property and business interruption insurers issue policies purporting to exclude coverage for losses caused by or resulting from viruses and/or communicable diseases, and such exclusions have been in broad circulation for well over a decade. For instance, in 2006 the Insurance Services Office (“ISO”) introduced a form exclusion titled “Exclusion for Loss Due to Virus or Bacteria” precisely because the presence of virus could cause the requisite property damage. ISO is responsible for drafting many of the insurance policy forms relied on by property insurers throughout the United States, and many domestic property and business interruption insurers employ ISO forms in their policies. In the

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July 6, 2006, circular prepared as part of its filing of the exclusion with state insurance regulators, ISO recognized that viruses could cause property damage, stating:

Disease-causing agents may render a product impure (change its quality or substance) or enable the spread of disease by their presence on interior building surfaces or the surfaces of personal property. When disease-causing viral or bacterial contamination occurs, potential claims involve the cost of replacement of property (for example, the milk), cost of decontamination (for example, interior building surfaces), and business interruption (time element) losses. Although building and personal property could arguably become contaminated (often temporarily) by such viruses and bacteria, the nature of the property itself would have a bearing on whether there is actual property damage.

Thus, ISO and the insurance industry have long recognized that the presence of a virus on or around property can constitute direct physical loss of or damage to property, and many insurers throughout the country employ exclusions purportedly designed to limit or bar coverage for certain losses and expenses caused by the presence of a virus. The Reinsurers chose not to do so here.

69. To the extent not waived or otherwise excused, the HII entities have complied with all terms and condition precedent contained in the Property Policy and Reinsurance policies. Therefore, the HII entities are entitled to all benefits of insurance provided by the policies.

FIRST CAUSE OF ACTION

(Declaratory Relief)

(By HII against All Defendants except Ace American and Zurich American)

70. HII realleges and incorporates by reference each of the allegations contained in paragraphs 1 through 69 above as though fully alleged herein.

71. HII contends that HII is entitled to coverage under the Reinsurance Policies for property damage, business interruption, and other losses suffered and/or expenses incurred as a result of the SARS-CoV-2, the Pandemic, and orders of civil authorities. HII is informed and believes, and on that basis alleges, that the Reinsurers dispute that HII is entitled to such coverage. Therefore, an actual and justiciable controversy exists between HII, on the one hand, and the Reinsurers, on the other.

72. Pursuant to 12 Vermont Statutes sections 4712 and 4713, HII seeks a judicial declaration from this Court confirming that HII's contentions, as stated above, are correct. A declaration is necessary in order that the parties' dispute may be resolved and that they may be aware of their respective rights and duties.

SECOND CAUSE OF ACTION

(Declaratory Relief)

(By HIIRM against Ace American and Zurich American)

73. HIIRM realleges and incorporates by reference each of the allegations contained in paragraphs 1 through 69 above as though fully alleged herein.

74. HIIRM contends that HIIRM is entitled to coverage under the Reinsurance Policies for property damage, business interruption, and other losses suffered and/or expenses incurred by HII as a result of the SARS-CoV-2, the Pandemic, and orders of civil authorities. HIIRM is informed and believes, and on that basis alleges, that the Reinsurers dispute that HIIRM is entitled to such coverage. Therefore, an actual and justiciable controversy exists between HIIRM, on the one hand, and the Reinsurers, on the other.

75. Pursuant to 12 Vermont Statutes sections 4712 and 4713, HIIRM seeks a judicial declaration from this Court confirming that HIIRM's contentions, as stated above, are correct. A declaration is necessary in order that the parties' dispute may be resolved and that they may be aware of their respective rights and duties.

WHEREFORE, Plaintiffs HII and HIIRM respectfully request that the Court enter judgment in their favor and the following relief:

ON THE FIRST CAUSE OF ACTION

1. For a declaration in accord with HII's contentions stated above;

ON THE SECOND CAUSE OF ACTION

2. For a declaration in accord with HIIRM's contentions stated above;

ON BOTH CAUSES OF ACTION

3. For costs of suit herein; and
4. For such other, further, and/or different relief as may be deemed just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Vermont Rule of Civil Procedure 38, HII and HIIRM demand a trial by jury.

DATED at Burlington, Vermont this 14th day of September, 2020.

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