

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2758.21

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA APPROVING THE PURCHASE OF BUILDERS RISK INSURANCE FROM THE FLORIDA LEAUGE OF CITIES; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE.

WHEREAS, the Town of Golden Beach (the "Town") determined that it was necessary to have Builder's Risk Insurance for its Civic Center Complex Project; and

WHEREAS, buildings are subject to many different risks while under construction (they might catch fire, be damaged by high winds, or fall victim to other forces of nature); and

WHEREAS, on August 6, 2021 the Town Manager authorized the purchase and issuance of a Builder's Risk Policy through the Florida League of Cities; and

WHEREAS, the Town Council has carefully considered and reviewed the policy and does hereby ratify the Town Manager's actions and approves the policy issuance.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA AS FOLLOWS:

Section 1. Recitals. Each of the above stated recitals are hereby adopted, confirmed and incorporated herein.

Section 2. Ratification. The Town Council ratifies and approves the Town Manager's approval and acceptance of the attached Builders Risk Policy.

Section 3. Implementation. The Town Manager is authorized to take any and all steps necessary to implement this Resolution and the issuance of the Builder's Risk Policy.

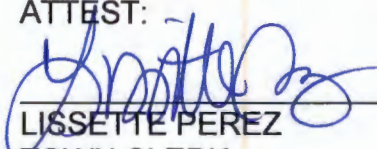
Section 4. Effective Date. The resolution shall be effective immediately upon its adoption.

The Motion to adopt the foregoing Resolution was offered by Vice Mayor Lusskin seconded by Councilmember Mendal and on roll call the following vote ensued:

Mayor Glenn Singer	<u>Aye</u>
Vice Mayor Judy Lusskin	<u>Aye</u>
Councilmember Bernard Einstein	<u>Aye</u>
Councilmember Jaime Mendal	<u>Aye</u>
Councilmember Kenneth Bernstein	<u>Aye</u>

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach, Florida, this 31st day August, 2021.

ATTEST:

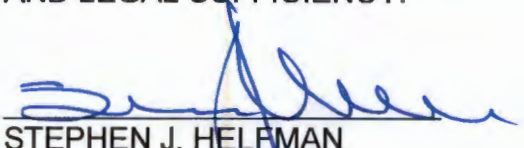


LISSETTE PEREZ
TOWN CLERK



MAYOR GLENN SINGER

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



STEPHEN J. HELFMAN
TOWN ATTORNEY



TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

MEMORANDUM

Date: August 31, 2021

To: Honorable Mayor Glenn Singer &
Town Council Members

From: Alexander Diaz, 
Town Manager

Subject: Resolution No. 2758.21 – Approving Builder's Risk Insurance
for the New Civic Center Complex

Item Number:

10

Recommendation:

It is recommended that the Town Council adopt the attached Resolution No. 2758.21 as presented.

Background:

This summer the Town purchased through the Florida League of Cities, Builder's Risk Insurance for our Civic Center Projects.

We determined that since buildings are subject to many different risks while under construction (they might catch fire, be damaged by high winds, or fall victim to other forces of nature), it was in the best interest of the Town to purchase this insurance. A principle of common law is that any new construction or other improvement to land becomes property of the owner of the land - the title holder - once there has been an "improvement" to the owner's site. Builder's risk insurance indemnifies against some of these losses.

Fiscal Impact:

An amount not to exceed \$56,672.00.

**INVOICE
SPECIAL COVERAGES**

8/10/2021 FMIT# 0212
INVOICE ID: ANC-10090F-2021

Ms. Mario Camacho
Finance Director
Town of Golden Beach
1 Golden Beach Drive
Golden Beach, FL 33160

MAKE CHECKS PAYABLE TO:

**FLORIDA MUNICIPAL INSURANCE TRUST
POST OFFICE BOX 1757
TALLAHASSEE FL 32302-1757**

MAKE ACH PAYMENTS TO:

BANK: Capital City Bank, 217 N. Monroe St., Tallahassee, FL 32301
RTN#/ABA#: 063100688
ACCT#: 0032620702
ACCT TYPE: Checking
ACCT NAME: Florida Municipal Insurance Trust

**PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT BY 8/25/2021.
IF FULL PREMIUM PAYMENT IS NOT RECEIVED BY 8/25/2021, THE POLICY IS SUBJECT TO CANCELLATION
FOR NON-PAYMENT OF PREMIUM BY THE INSURER.**

DESCRIPTION	POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
B-2 GENERAL LIABILITY BUILDERS RISK OFFICE BUILDING 1 GOLDEN BEACH DRIVE	CSN0010727	8/6/2021	2/6/2023

PREMIUMS

BASE PREMIUM:	\$56,672.00
ADDITIONAL INSURED(S):	
TERRORISM:	
INSPECTION FEE:	
POLICY FEE:	
FEES:	

<u>TOTAL POLICY PREMIUM:</u>	<u>\$56,672.00</u>
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Ancillary insurance coverage includes any insurance coverage not currently available directly from the Florida Municipal Insurance Trust. When the Florida League of Cities, Inc. acts as intermediary or agency in facilitating ancillary insurance coverage for a member with a third party insurer, the Florida League of Cities, Inc. shall not be liable to the member if the third party insurer becomes insolvent at any time after coverage has commenced. The Florida League of Cities, Inc. shall use reasonable skill and judgment in securing any such ancillary insurance coverage. However, it is not a guarantor of the financial condition of any third party insurer and is entitled to reasonably rely upon generally accepted financial, actuarial and/or insurance industry data when facilitating ancillary insurance coverage.



Wholesale Trading Insurance Services, LLC

425 California Street, 24th Floor
San Francisco, CA 94104
Phone: (206) 430-1325, Fax: 855-982-3333
CA License #0K44341

CONFIRMATION OF COVERAGE

DATE ISSUED: August 6, 2021

PRODUCER: EPIC - Concord
Trish Drew
P.O. Box 5668
Concord, CA 94524

INSURED: Town of Golden Beach
1 Golden Beach Dr
Golden Beach, FL 33160

INSURER: Lloyd's of London

POLICY NO.: CSN0010727

COVERAGE: Builders' Risk - Commercial Lines

POLICY PERIOD: 8/6/2021 TO 2/6/2023

12:01 A.M. STANDARD TIME AT THE LOCATION ADDRESS OF THE NAMED INSURED. THE ATTACHED Lloyd's of London BINDER WILL BE TERMINATED AND
SUPERSEDED UPON DELIVERY OF THE FORMAL POLICY(IES) ISSUED TO REPLACE IT.

PREMIUM: \$56,672.00

FEES:

TAXES:

TRIA PREMIUM: REJECTED

TOTAL: \$56,672.00

SUBJECT TO:

COMMISSION: 10% of premium excluding fees and taxes

THE TERMS AND CONDITIONS OF THE ATTACHED Lloyd's of London BINDER OF INSURANCE MAY NOT COMPLY WITH THE SPECIFICATIONS SUBMITTED FOR CONSIDERATION. PLEASE READ THE ATTACHED Lloyd's of London BINDER CAREFULLY AND COMPARE IT WITH ANY QUOTE AND SUBMISSION DOCUMENTS AND REVIEW THE POLICY FORMS FOR THE ACTUAL COVERAGES PROVIDED.

IN ACCORDANCE WITH YOUR INSTRUCTIONS, AND IN RELIANCE UPON THE STATEMENTS MADE BY THE RETAIL BROKER IN THE INSURED'S APPLICATION/SUBMISSION, WE HAVE OBTAINED INSURANCE AT YOUR REQUEST AS PER ATTACHED.

CANCELLATION: THIS POLICY IS SUBJECT TO THE CANCELLATION PROVISIONS AS FOUND IN THE POLICY(IES) OR CERTIFICATE(S) CURRENTLY IN USE BY THE INSURER. THE INSURANCE EFFECTED UNDER THE INSURER'S BINDER CAN BE CANCELLED BY THE INSURER (SUBJECT TO STATUTORY REGULATIONS) BY MAILING, TO THE INSURED AT THE ADDRESS STATED ON THE FACE OF THIS CONFIRMATION OF INSURANCE, WRITTEN NOTICE STATING WHEN SUCH CANCELLATION SHALL BE EFFECTIVE. IN THE EVENT OF CANCELLATION BY THE INSURED, THE EARNED PREMIUM WOULD BE SUBJECT TO THE MINIMUM PREMIUM IF APPLICABLE.

THIS CONFIRMATION OF INSURANCE IS ISSUED BASED UPON THE INSURER'S AGREEMENT TO BIND AND IS ISSUED BY THE UNDERSIGNED WITHOUT ANY LIABILITY WHATSOEVER AS AN INSURER.

PREMIUM PAYMENT IS DUE WITHIN TWENTY (20) DAYS FROM EFFECTIVE DATE UNLESS OTHERWISE STIPULATED.



AUTHORIZED REPRESENTATIVE

Bruce Norris

Director

bnorris@wtislhc.com

(206) 430-1325

TOTAL NUMBER OF PAGES: 2
INSURED: Town of Golden Beach
DATE ISSUED: August 6, 2021

Reference #: 0044839A



☐ QUOTATION

☒ BINDER

DATE: 08/06/2021

COMPANY POLICY NUMBER: CSN0010727

NOTICE: The Company offering coverage is a Surplus Lines insurer, regulated by Surplus Lines insurance laws. It is the responsibility of the Surplus Lines Broker to ensure those laws are followed, and to collect and remit any applicable taxes, surcharges, stamping or other fees.

NAMED INSURED: Town of Golden Beach

MAILING ADDRESS: 1 Golden Beach Dr
Golden Beach, FL 33160

ISSUING COMPANY (the "Company"):

As Per Schedule of Insurers

PRODUCER:

Wholesales Trading Insurance Services, LLC
135 Main St, Suite 1875
San Francisco, CA 94105
Attn: Bruce Norris

COMPANY FINANCIAL RATINGS:

AM Best: "A"

ADDITIONAL INSURED: N/A

LOSS PAYABLE: Insured

INSURED PROJECT LOCATION:

1 Golden Beach Dr, Golden Beach, FL 33160

INSURED PROJECT DESCRIPTION:

New construction of a three-story, 14,500 sq. ft., masonry noncombustible office building.

POLICY PERIOD:

Effective Date: 08/06/2021 at 12:01 am

Expiration Date: 02/06/2023 at 12:01 am

Standard Time at the location of the Insured Project.

Project Term: 549 days

POLICY FORM: Builders Risk Coverage Form

ESTIMATED TOTAL CONTRACT VALUES:

Hard Costs	\$5,988,761
Owner Supplied Material (Miscellaneous)	Not Covered
Existing Structures	Not Covered
Loss of Gross Earnings	Not Covered
Loss of Rental Income	Not Covered
Soft Costs	Not Covered
Estimated Total Contract Value	\$5,988,761

****Subject to premium adjustment at completion of the project***

PARTICIPATION: 100.00% being \$5,988,761 part of \$5,988,761

POLICY LIMIT: The Company will not be liable for more than its proportion of \$5,988,761 in any one Occurrence and further subject to its proportion of the following limits, sublimits and aggregate limits:

POLICY SUBLIMITS & AGGREGATE LIMITS:

Hard Costs	\$5,988,761
Owner Supplied Material	Not Covered
Existing Property	Not Covered
Loss of Gross Earnings	Not Covered
Loss of Rental Income	Not Covered
Soft Costs/Additional Expenses	Not Covered
Transit (per conveyance)	\$100,000
Offsite Temporary Storage and/or Offsite Fabrication (per location)	\$100,000
Expediting Expense	Lesser of 25% of the Loss or \$100,000
Trees, Shrubs, Plantings and Landscaping (maximum \$2,500 per item including landscape)	\$50,000
Plans, Blueprints, Drawings, Electronic Data, Renderings, Specifications or Other Contract Documents & Models	\$25,000
Fire Brigade Charges & Extinguishing Expenses	\$25,000
Debris Removal	Lesser of 25% of the Loss or \$100,000
Ordinance & Law / Demolition & Increased Cost of Construction	\$250,000
Extra Expense	Not Covered
Pollution & Contamination Cleanup & Decontamination (Policy Aggregate)	\$10,000
Claim Preparation Costs	\$25,000
Mold & Fungus Remediation (Policy Aggregate)	\$10,000
Architects and/or Engineers Fees in restoration following an insured loss	\$25,000
Earth Movement <input type="checkbox"/> annual aggregate <input type="checkbox"/> policy aggregate	Not Covered
Flood <input checked="" type="checkbox"/> annual aggregate <input type="checkbox"/> policy aggregate	\$5,988,761
The above sub-limits outlined for Flood are included within the general aggregate for Flood and do not increase the Limits of Liability.	
Windstorm <input type="checkbox"/> annual aggregate <input checked="" type="checkbox"/> no aggregate <input type="checkbox"/> policy aggregate	\$5,988,761
Named Windstorm <input type="checkbox"/> annual aggregate <input checked="" type="checkbox"/> no aggregate <input type="checkbox"/> policy aggregate	\$5,988,761

TIME LIMITS:	
Hot Testing Period	Not Covered
Periods of Occupancy or Commercial Service	4 Consecutive Weeks
Period of Indemnity – Loss of Gross Earnings, Loss of Rental Income, Soft Costs	Not Covered
1. In no event shall these sublimits of liability increase the Limit of Liability. Sublimits are part of the policy limit, not in	

addition thereto.

2. Application of all sublimits is per occurrence unless noted otherwise.
3. Coverage shall only apply when a sub-limit is shown under Policy Sublimits & Aggregate Limits section.
4. Coverage is excluded when a sublimit is shown as Not Covered.
5. When a sublimit indicates an annual aggregate applies, the sublimit shown is the most we will pay for loss during a policy year.

DEDUCTIBLES:

The applicable amount shown below shall be deducted for each claim arising from insured loss or damage in any one Occurrence. The Company shall be liable only for its proportion of the amount of insured loss or damage in excess thereof, subject to all terms and conditions of the policy.

Physical Loss of or Damage to Property Insured	\$10,000
Water Damage other than Flood	\$150,000
Collapse	\$10,000
Flood	5% of the total insured values at risk at the time and place of loss subject to a minimum deduction of \$100,000 as respects the peril of FLOOD
Earth Movement	Not Covered
Windstorm and Hail	\$50,000
Named Windstorm	5% of the total insured values at risk at the time and place of loss subject to a minimum deduction of \$100,000 as respects the peril of NAMED WINDSTORM
Hot Testing	Not Covered
Loss of Gross Earnings/Loss of Rental Income/Soft costs	Not Covered

1. For any coverage where a deductible is not shown, the standard "physical loss or damage to property insured" deductible shall apply.
2. When a percentage (%) is entered absent a corresponding minimum dollar amount, the percentage shall be applied without minimum. When a dollar amount is entered absent a corresponding percentage (%), the word minimum is deleted.
3. In the event that more than one deductible applies in any one occurrence, only the largest shall be applied.

ANNUAL RATES (unless noted otherwise):

Flat/\$100 Physical Damage

NC/\$100 Physical Damage Existing Property

Included/\$100 Flood

NC/\$100 Earth Movement

Included/\$100 Named Windstorm if applicable (Monthly Rate effective from June 1st to November 30th)

NC/\$100 Loss of Gross Earnings

NC/\$100 Loss of Rental Income

NC/\$100 Soft Costs

NC/\$100 Hot Testing (Monthly)

Note: Rates are applied against declared estimated total contract values and estimated project term

TOTAL TERM POLICY PREMIUM	TOTAL CERTIFIED TERRORISM PREMIUM	TOTAL POLICY PREMIUM
\$56,672	Not Covered	\$56,672

PREMIUM:

1. Cancellation: 30 days except 10 days for non-payment of premium. (subject to 10% short rate cancellation if Insured cancels the policy)
2. Premium Payment Terms: Premium is payable within 30 days of Policy Inception.
3. 25% of the premium is fully earned on the Effective Date, and not subject to return or refund.
4. Applicable Surplus Lines taxes and fees are in addition to the premiums stated above.
5. The Producer shown above is responsible for adding to the quoted premium any state taxes or fees as required by law. The Producer is further responsible for all filings with any state regulatory body including but not limited to affidavits, tax summaries, taxes and fees.
6. Where applicable, the Producer must provide the Surplus Lines Association (SLA) number at binding.
7. The Producer is responsible for all required diligent searches and filing of Form SL-2. A copy of Form SL-2 must be provided to the Company upon binding.

POLICY TERRITORY: While located at the location of the Insured Project and while in transit within and / or offsite storage within the fifty (50) states comprising the United States of America, and within the District of Columbia including the territorial coastal waters of any of the foregoing.

PERILS INSURED: All risks of direct physical loss of or damage to property insured while at the location of the Insured Project subject to the terms, conditions and exclusions in the Builders Risk Coverage Form.

VALUATION: As per Builders Risk Coverage Form

POLICY FORMS & ENDORSEMENTS APPLICABLE:

HTKP002	Schedule of Insurers
HTKC001	Builders Risk Coverage Form
HTKE078	Cyber Loss Limited Exclusion
HTKE012	War and Terrorism Exclusion Endorsement
LMA5390	TRIA Not Purchased Clause

OTHER TERMS APPLYING:

Fenced Jobsite
Exterior Lighting

Any deviation(s) from the above terms could be considered a material increase in hazard that changes the insurability of the risk and/or the premium quoted. The Company must be notified of such deviation(s) and the insured will, on demand, pay the premium for such increased hazard for the term of the use thereof, otherwise this policy will be null and void.

COMMENTS:

Additional Terms and Conditions:

1. This quotation or binder is based upon the information provided in the submission and subsequent documentation. The terms and conditions of this quotation or binder take precedence over any other terms and conditions in the submission. Please review this document carefully.
2. If there is any material change in the loss history or other pertinent underwriting information we reserve the right to amend or withdraw this quotation or binder.
3. This quotation or binder is conditioned upon your agreement to accept delivery of the policy and any endorsements and policyholder notices by electronic means. Your acceptance of this quotation or binder signifies your agreement to this.
4. The Company reserves the right to conduct inspections of insured properties.
5. Terrorism – Coverage is available at your option. You must choose to accept or reject coverage.
 - (a) If you Accept coverage you must advise us at binding and add the premium shown on the attached Disclosure Notice to other premiums stated herein and remit to the Company within 30 days.

- (b) If you Reject coverage, you must sign the attached Disclosure Notice and return it to the Company immediately. If you reject coverage All Terrorism coverage will be excluded.
6. This document will be valid until 60 days from date of quotation. Because the general underwriting requirements of the Company may change, we reserve the right to withdraw or amend this document and proposal at any time.
7. An Indication is an expression of interest in writing the account subject to the pricing, terms and conditions set forth in the Indication, but does not constitute a Quotation. An Indication does not constitute an offer to provide the insurance, nor may a binder be issued based upon an Indication. When this document is presented as a Quotation and not an Indication then it is an offer to provide insurance but does not constitute a binder. Coverage can only be bound on behalf of when confirmed in writing by the undersigned or their authorized designee and then based strictly on the terms and conditions outlined in this document unless otherwise modified and confirmed in writing at or prior to the time of binding.
8. Office of Foreign Assets Control (OFAC) Disclosure Notice:
This proposal or resulting binder, the continuation of any bound insurance, and any payments to you, to a claimant or to another third party, may be affected by the administration and enforcement of U.S. economic embargoes and trade sanctions by the office of Foreign Assets Control (OFAC), if we determine that any such party is on the "Specialty Designated Nationals or Blocked Persons" list as maintained by Office of Foreign Assets Control.

When this document is presented as a binder as indicated on Page 1, items number 6 and 7 above are deleted.

**ADDITIONAL UNDERWRITING INFORMATION REQUIRED AS A CONDITION OF BINDING COVERAGE AND UNLESS NOTED BELOW
DUE WITHIN THIRTY (30) DAYS OF BINDING WITH THE COMPANY.**

If an item is checked (x) below it is a required part of the basis for the terms and conditions set forth herein. Any item(s) outstanding at the time a binder is requested may be cause for withdrawal or amendment of these terms and conditions

- ☒ Surplus Lines Broker
☒ Surplus Lines Number
☒ Signed Tria Accepted or Rejected

POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE

You are hereby notified that under the Terrorism Risk Insurance Act of 2002, as amended ("TRIA"), that you now have a right to purchase insurance coverage for losses arising out of acts of terrorism, **as defined in Section 102(1) of the Act, as amended:** The term "act of terrorism" means any act that is 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 an air carrier or vessel 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. Any coverage you purchase for "acts of terrorism" shall expire at 12:00 midnight December 31, 2027, the date on which the TRIA Program is scheduled to terminate, or the expiry date of the policy whichever occurs first, and shall not cover any losses or events which arise after the earlier of these dates.

YOU SHOULD KNOW THAT COVERAGE PROVIDED BY THIS POLICY FOR LOSSES CAUSED BY CERTIFIED ACTS OF TERRORISM IS PARTIALLY REIMBURSED BY THE UNITED STATES 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 THIS FORMULA, THE UNITED STATES PAYS 80% OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURER(S) PROVIDING THE COVERAGE. YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A USD100 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 USD100 BILLION. IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED USD100 BILLION, YOUR COVERAGE MAY BE REDUCED.

THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

<input type="checkbox"/>	I hereby elect to purchase terrorism coverage for a prospective premium of USD Not Covered <i>(This premium does not include any charges for the portion of loss covered by The Federal government under the Act)</i>
<input checked="" type="checkbox"/>	I hereby elect to have coverage for acts of terrorism excluded from my policy. I understand that I will have no coverage for losses arising from acts of terrorism.

Policyholder/Applicant's Signature

Company Signature

Print Name

CSN0010727

Policy Number

Date

LMA9184

09 January 2020



SCHEDULE OF INSURERS

The Insurers and their participation in this Policy are as follows:

Insurer	Participation
Tokio Marine Kiln Syndicate 510	15.74%
Tokio Marine Kiln Syndicate 1880	3.93%
Safety Specialty Insurance Company	47.00%
Ascot Specialty Insurance Company	33.33%

The Unique Market Reference (UMR) number for the above listed Tokio Marine Kiln Syndicates shall be:
B0429BA2103195

BUILDERS RISK COVERAGE FORM

Words or phrases that appear in capitalized **bold** face type followed by an Asterisk have special meaning that will be applied in the interpretation of such words or phrases in accordance with Part C – Definitions. In addition, throughout this policy, the words “you” and “your” refer to the Named Insured shown in Item 1 of the Policy Declarations, the term “policy period” refers to the Policy Period shown in Item 5 of the Policy Declarations, and the word “Company” refers to the Issuing Company identified in the Policy Declarations.

Various Provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

PART A – COVERAGE TERMS AND CONDITIONS

1. INSURING AGREEMENT:

This policy, subject to the terms, exclusions, limitations and conditions contained herein or endorsed hereto, insures against **LOSS*** to **PROPERTY INSURED*** while at the location of the **INSURED PROJECT*** while in offsite temporary storage, offsite fabrication or while in transit, all within the coverage territory and occurring during the policy period, unless the cause of such **LOSS*** is Excluded and/or Limited by this policy form. The most the Company will pay in any one **OCCURRENCE*** is its proportion of the Policy Limit described in Paragraph 9 (POLICY LIMIT) of the Builder’s Risk Policy Declarations (“Declarations”), subject to the participation, sub-limits and aggregate limits set forth in Paragraph 10 (PARTICIPATION) of the Declarations, and further subject to the deductible provisions set forth in Paragraph 11 (DEDUCTIBLES) of the Declarations.

2. EXTENSIONS OF COVERAGE: (*Coverage is excluded when shown as Not Covered on the Declarations*)

A. ARCHITECTS AND ENGINEERS FEES:

In the event of **LOSS*** insured hereunder and occurring during the policy period, this policy is extended to cover necessary and reasonable compensation for architect's or engineer's services and expenses incurred by the Insured in connection with the repair or replacement of the **INSURED PROJECT***, but excluding any architectural, engineering, drafting or other cost, expense or fees including change orders and shop drawings relating to improvements or betterments to the **INSURED PROJECT***.

B. CLAIMS PREPARATION COSTS:

This policy is extended to cover the reasonable and necessary additional expenses incurred by the Insured which are directly related to the preparation, substantiation and / or documentation of any claim for **LOSS*** insured hereunder and occurring during the policy period to **PROPERTY INSURED*** as a result of a covered cause of **LOSS*** under this policy. Any costs incurred for the services or efforts of an attorney, lawyer or a Public Adjuster are expressly excluded.

The Company shall have no liability for any additional expense hereunder unless and until a claim for **LOSS*** to **PROPERTY INSURED*** as a result of a covered cause of **LOSS*** under this policy has been submitted to and accepted by the Company.

Any costs incurred hereunder shall be subject to the deductible applicable to the cause of **LOSS*** that necessitates such costs. In the event that the amount of **LOSS*** to **PROPERTY INSURED*** as a result of a covered cause of **LOSS*** under this policy is less than the applicable deductible stated elsewhere in this policy, the Company shall not accept a claim for nor be liable for additional expenses as covered herein.

C. COLD TESTING: Limit – Up to Policy Limit

Any functional testing exclusive of **HOT TESTING** as defined above including but not limited to electrical, mechanical, hydraulic and hydrostatic.

Startup and testing of building systems including heating, lighting, air conditioning, plumbing, electrical work, ventilation, sprinkler systems, plumbing, gas line, elevators and escalators shall be considered **COLD TESTING**.

D. CONSTRUCTION TRAILERS: Limit – \$25,000

The company will pay for **LOSS*** to **CONSTRUCTION TRAILERS** and office trailer contents, other than "construction documentation, records, tools and equipment", while at the **INSURED PROJECT*** site or a temporary offsite location caused by a covered **LOSS***.

CONSTRUCTION/OFFICE TRAILERS means modular or portable office trailers, construction trailers, storage trailers or portable restrooms.

E. CRANE RE-ERECTION EXPENSE: Limit – \$25,000

If a Crane which is equipped with a winch for hoisting and lower loads is not covered under this policy is damaged as a result of a covered **LOSS*** while at the **INSURED PROJECT*** site, the company will pay the reasonable and necessary costs incurred by the Named Insured to re-erect a crane if necessary to complete the **INSURED PROJECT***.

This extension of coverage does not apply to and shall not modify, amended or alter any other coverage extension or delay in opening coverage insured by the policy and such coverage extension and delay in opening coverage is expressly excluded.

F. DEBRIS REMOVAL:

In the event of a covered **LOSS*** and occurring during the policy period, the Company will pay the following necessary and reasonable costs:

- (1) costs to remove debris being an insured part of the property from **INSURED PROJECT***; and/or
- (2) cost of cleanup, at the **INSURED PROJECT***, made necessary as a result of such **LOSS***.

Debris Removal does not apply to costs to:

- A. Remove debris of property of yours that is not insured under this policy, or property in your possession that is not **PROPERTY INSURED***;
- B. Remove debris of property owned by or leased to or for the owner of the **INSURED PROJECT*** where the described premises are located, unless you have a contractual responsibility to insure such property and it is insured under this policy;
- C. Remove any property that is Property Not Covered;
- D. Remove property of others of a type that would not be **PROPERTY INSURED*** under this Coverage Form;
- E. Extract **CONTAMINANTS OR POLLUTANTS*** from land or water; or
- F. Remove, restore or replace polluted land or water.

It is a condition precedent to recovery under this extension that the Company shall have paid or agreed to pay for **LOSS*** to the **PROPERTY INSURED*** hereunder and that the Insured shall give written notice to the Company of intent to claim for cost of covered removal of debris or cost to clean up not later than **180 days** after the date of such **LOSS***.

G. ERRORS AND OMISSIONS: Limit – \$25,000

No unintentional errors or omission in any information required to be reported to the Company or otherwise relative to this Insured will prejudice the Insured's right of recovery, but will be reported to the Company as soon as practicable when discovered.

H. ESCALATION CLAUSE:

In the event the **TOTAL CONTRACT VALUE*** reported for the **INSURED PROJECT*** increases during the policy period, the total project hard cost limit will automatically increase to reflect the change concurrently subject to a maximum of 5% of the original limit shown unless otherwise endorsed.

This extension of coverage does not apply to and shall not modify, amended or alter any other coverage extension or delay in opening coverage insured by the policy and such coverage extension and delay in opening coverage is expressly excluded.

I. EXPEDITING EXPENSE:

In the event of a covered **LOSS*** occurring during the policy period, the Company will pay, for the reasonable and necessary costs incurred to make temporary repairs and to expedite the permanent repair or replacement of the **PROPERTY INSURED*** which is damaged by a peril not otherwise excluded, including additional wages for overtime, night work, and work on public holidays and the extra costs of express freight or other rapid means of transportation.

J. EXTRA EXPENSE:

In the event of a covered **LOSS*** occurring during the policy period, the Company will pay the **EXTRA EXPENSE** incurred as a result of **LOSS*** to the **INSURED PROJECT*** hereunder.

EXTRA EXPENSE shall be defined as the reasonable and necessary excess costs incurred during the period of restoration and repair that are over and above the total costs that would normally have been incurred during the same period of time had no **LOSS*** occurred. **EXTRA EXPENSE** shall include, but not be limited to, equipment rental, emergency expenses, temporary use of property, demobilization and remobilization of equipment and facilities, and expenses necessarily incurred to reduce loss excluding, however, any Additional Interest Expense, Debt Service, Business Interruption, Loss of Income, Loss or Earnings, Loss of Rents or Delay In Completion and/or Acceleration Expense.

Any costs incurred hereunder shall be subject to the deductible applicable to the cause of **LOSS*** that necessitates such costs. In the event that the amount of **LOSS*** to **PROPERTY INSURED*** as a result of a covered **LOSS*** is less than the applicable deductible stated elsewhere in this policy, the Company shall not accept a claim for nor be liable for excess costs as covered herein.

K. FIRE BRIGADE CHARGES AND EXTINGUISHING EXPENSES:

In the event of a covered **LOSS*** occurring during the policy period, the Company will pay the following reasonable and necessary expenses:

- (1) Fire brigade charges and other extinguishing expenses for which the Named Insured may be assessed;
- (2) loss of fire extinguishing materials expended in fighting fire, including the loss of similar material which may be brought on the project location for the purpose of extinguishing a fire already in progress at the time such materials are ordered and delivered, but liability shall not exceed the combined value of such extinguishing materials which are on the premises, or on adjacent premises, if such materials are jointly owned at the time of loss.

L. HOT TESTING:

Which means any startup, commissioning or other forms of testing making use of any feedstock or similar media including operational or performance tests.

When a specific premium and rate or acknowledgement of coverage are entered for **HOT TESTING** in Paragraph 12 of the Declarations and a **TESTING PERIOD** has been identified in Paragraph 5 of the Declarations, this policy is extended to cover **LOSS*** to the **PROPERTY INSURED*** which is caused by or results from **HOT TESTING**.

The Insured warrants that supervisory and safety systems shall not be deliberately or knowingly circumvented during the conduct of **TESTING**. This warranty shall not apply when it is standard accepted industry practice and/or manufacturer's specification that such circumvention is necessary for the conduct of individual activities within the conduct of **TESTING** provided that such circumvention does not extend beyond said individual activities. It is further warranted that all instrumentation will be installed and activated prior to the conduct of any **TESTING**.

TESTING PERIOD: As respects **HOT TESTING**, the **TESTING PERIOD** shall mean and be limited to that period beginning with the introduction into the **PROPERTY INSURED*** of feedstock or similar media for processing and handling or the commencement of supply to a system and continuously thereafter whether or not such testing, commissioning or startup is continuous or intermittent and terminating on the expiry of the period of time as provided in Paragraph 5 of the Declarations

Hot Testing is only covered if indicated on the Declaration page.

M. MOLD REMEDIATION EXPENSE:

Notwithstanding the exclusion in the policy for **LOSS*** due to mold, fungus, mildew and spores in the event of a covered **LOSS*** occurring during the policy period, this policy is extended to cover mold remediation expenses incurred by the Insured, resulting from or caused by a covered **LOSS***, which results in **LOSS*** to **PROPERTY INSURED***, made necessary by insured physical damage to an **INSURED PROJECT*** or **PROPERTY INSURED*** as provided under the policy. This extension of coverage only applies to the portion of an **INSURED PROJECT*** or **PROPERTY INSURED*** which directly sustained the covered **LOSS***.

Mold remediation expense means the following reasonable and necessary costs not otherwise excluded under the policy:

- (1) Testing the indoor air quality for mold;
- (2) Testing the surfaces and materials of the **INSURED PROJECT***, **PROPERTY INSURED*** or contents for mold;
- (3) Developing a mold remediation plan; and
- (4) Implementing a mold remediation plan including the clean up, removal, containment, treatment or disposal of mold;

Mold remediation shall also mean the following reasonable and necessary costs, including increased cost, not otherwise excluded:

- (1) Removing debris solely due to mold; and
- (2) Repairing and replacing the **INSURED PROJECT*** or **PROPERTY INSURED*** damaged.

Mold remediation expense does not apply beyond the provisions as provide herein including any other consequential loss or damage as a result of mold.

Any costs incurred hereunder shall be subject to the deductible applicable to the cause of loss that necessitates such costs.

N. OCCUPANCY or COMMERCIAL SERVICE:

This policy is extended to permit occupancy/commercial service insured hereunder being a part of an **INSURED PROJECT*** but prior to final acceptance by the Owner and coverage shall not be reduced due to such partial occupancy/operation except as provided herein, provided that the Insured warrants that all **FIRE PROTECTION SYSTEMS*** and security systems within the occupied/operational space shall be in service and fully operational prior to and during any such occupancy/operation. It is a condition hereof that the Insured, upon such knowledge, shall report any increase in hazard beyond that provided for in the policy.

OCCUPANCY or COMMERCIAL SERVICE shall be deemed to have occurred when the **INSURED PROJECT*** or any portion thereof has been put to its intended use but only as respects such portion or portions put to use. The orientation or training of building management staff, the training of plant engineering and maintenance personnel, the establishment of a sales or rental office and completion of tenant fit out work shall not be considered **OCCUPANCY or COMMERCIAL SERVICE** on their own.

O. OFFSITE TEMPORARY STORAGE AND/OR OFFSITE FABRICATION:

This policy is extended to cover **LOSS*** occurring during the policy period to property to be used in or incidental to completion of an **INSURED PROJECT***, while in temporary storage anywhere within the coverage territory but excluding such property while in the course of manufacturing or processing at the manufacturer's or supplier's site or while in transit, except as provided in Clause 3 a. Transit.

P. ORDINANCE OR LAW/ DEMOLITION AND INCREASED COST OF CONSTRUCTION:

If the repair of **LOSS*** to **PROPERTY INSURED*** caused by an insured peril becomes subject to the enforcement of any ordinance or law that is in force at the time of **LOSS*** and that:

- (1) Requires the demolition of parts of the undamaged **PROPERTY INSURED***; or
- (2) Regulates the construction or repair of damaged **PROPERTY INSURED***;

then the Company will pay for:

- A. The cost of demolishing the undamaged **PROPERTY INSURED*** and clearing the site of debris from such demolition; and
- B. The value of such undamaged part of the **PROPERTY INSURED*** which must be demolished; and
- C. The increased cost of repair and/or reconstruction of the damaged and undamaged **PROPERTY INSURED*** on the same site and limited to the minimum requirements of such ordinance or law regulating the repair or reconstruction of the damaged **PROPERTY INSURED*** on the same site. However, the Company will not pay for any increased cost of repair or reconstruction unless the damaged **PROPERTY INSURED*** is actually rebuilt or replaced.

The Company will not pay the following costs:

- (1) Cost of demolition or increased cost of repair or reconstruction, debris removal, or other consequential loss caused by the enforcement of any ordinance or law regulating asbestos or other hazardous material;
- (2) Cost of any governmental direction or request declaring that asbestos or other hazardous material present in, part of or utilized on any damaged or undamaged portion of **PROPERTY INSURED*** that can no longer be used for the purpose for which it was intended or installed and must be removed, modified or abated;
- (3) Cost of demolition or increased cost of repair or reconstruction, debris removal, or other consequential loss caused by the enforcement of any ordinance or law regulating **CONTAMINANTS OR POLLUTANTS***; or
- (4) Cost of compliance with the enforcement of any ordinance or law which the Named Insured or owner would have otherwise been required to comply by nature of such ordinance or law in the absence of any covered **LOSS***.

Q. PLANS, BLUEPRINTS, DRAWINGS, ELECTRONIC DATA*, RENDERINGS, SPECIFICATIONS OR OTHER CONTRACT DOCUMENTS & MODELS:

This policy is extended to cover **LOSS*** occurring during the policy period to plans, blueprints, drawings, electronic data, renderings, specifications or other contract documents (whether paper or electronic media format) and models while at the location of the **INSURED PROJECT***.

R. POLLUTION & CONTAMINATION CLEAN UP & DECONTAMINATION:

In the event of **LOSS*** occurring during the policy period, the Company will pay the cost of cleanup or decontamination as a result of sudden and unforeseen **LOSS*** caused by **CONTAMINANTS OR POLLUTANTS*** on an **INSURED PROJECT*** site at time of **OCCURRENCE*** but restricted to the **INSURED PROJECT*** site; demolition, or removal of any **PROPERTY INSURED*** to the extent to comply with the minimum standards of any regulation, ordinance or law which requires the demolition, repair, or construction of buildings or structures subsequent to and necessitated by a covered **LOSS*** provided that such regulation, ordinance or law is in force at the time of **LOSS***. No additional costs of reconstruction or additional costs of repair by reason of any regulation, ordinance, or law are included hereunder. The foregoing shall not invalidate any other provisions of the policy or endorsements attached to the policy.

Any costs incurred hereunder shall be subject to the deductible applicable to the cause of **LOSS*** that necessitates such costs.

S. PRESERVATION OF PROPERTY: Limit – \$25,000

If it is necessary to remove or protect **PROPERTY INSURED*** from the **INSURED PROJECT*** site or off-site storage to protect it from a covered **LOSS***, the company will pay the costs incurred by the Named Insured to protect or remove the **PROPERTY INSURED*** including moving and storage.

T. REWARD: Limit – \$25,000

At the Company's option, the Named Insured may be reimbursed for rewards paid, other than to the Named Insured, or any of the Named Insured's partners, members, managers or officers, for information leading to the conviction of any one or more persons responsible for **LOSS*** covered under this Policy. The Company will be the sole judge as to the payment and amount of the reimbursement.

U. SEWER BACKUP: Limit – 1% of the total project value up to \$500,000

Water or waterborne material that backs up, overflows or is otherwise discharged through a sewer or drain, sump or septic tank; or water or waterborne material below the surface of the ground, including but not limited to water or waterborne material that exerts pressure on or flows, seeps, or leaks through or into any **BASEMENT** or below ground portion of the **INSURED PROJECT***.

The term **BASEMENT** shall be defined as any area of a structure having its bottom surface, whether floored or not, below ground level on any side of such structure.

V. TRANSIT:

This policy is extended to include transit coverage for **LOSS*** occurring during the policy period to property to be used in or incidental to completion of the **INSURED PROJECT*** from the commencement of loading at the original point of shipment anywhere within the coverage territory, until completion of unloading at a location of the **INSURED PROJECT***, including shipments on inland or coastal waters but excluding ocean marine shipments.

The Insured agrees to keep records of all shipments covered hereunder and make them available to the Company upon request.

This coverage shall be void if the Insured enters into any special agreement with carriers, releasing them from their common law or statutory liability or agreeing that this insurance shall in any way inure to the benefit of such carriers; however, the Insured may, without prejudice to this coverage, accept such bills of lading, receipts, or contracts of transportation as are ordinarily issued by carriers containing a limitation as to the value of property insured.

W. TREES, SHRUBS, PLANTINGS AND LANDSCAPING:

This policy is extended to cover **LOSS*** occurring during the policy period to trees, plantings, shrubs and landscaping materials which are part of and while located at the **INSURED PROJECT***.

PART B – EXCLUSIONS AND LIMITATIONS

1. EXCLUSIONS:

This policy shall not pay for **LOSS***, costs, expenses or fees caused directly or indirectly and/or contributed to, in whole or in part, by any of the following excluded perils except as specifically allowed in a, b, c, d, f or j below:

- a. Consequential loss, damage or expense of any kind or description including but not limited to loss of market or delay, liquidated damages, performance penalties, penalties for non-completion, delay in completion, or non-compliance with contract conditions, whether caused by a peril insured or otherwise, however the foregoing shall not exclude Delay In Completion Coverage when it is endorsed to this policy;
- b. Cost of making good faulty or defective workmanship or material, unless **LOSS*** by a peril not otherwise excluded ensues and then this policy will cover for such ensuing physical loss or damage only;
- c. Cost of making good faulty, defects, errors, deficiencies or omissions in design, plans or specifications, unless **LOSS*** by an insured peril ensues and then this policy will cover for such ensuing loss or damage only;
- d. Wear and tear, gradual deterioration, marring or scratching, inherent vice, latent defect, corrosion, rust, dampness or dryness of the atmosphere, unless **LOSS*** by an insured peril ensues and then this policy will cover for such ensuing loss or damage only;
- e. (1) War, 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 (de jure or de facto) or by any authority maintaining or using military, naval or air forces; or
 - B. by military, naval or air forces; or
 - C. by an agent of any such government, power, authority or 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 act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the **LOSS***. For the purpose of this exclusion 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 organization(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 policy also excludes **LOSS***, 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 any act of terrorism;

If the Company alleges that by reason of this exclusion, any **LOSS***, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Insured;
- (5) Hijacking or any unlawful seizure or wrongful exercise or control of any mode of transportation, including but not limited to aircraft, watercraft, truck(s), train(s) or automobile(s), including any attempted seizure of control, made by any person or persons;
- f. Nuclear reaction, nuclear radiation or radioactive contamination however such may have been caused; nevertheless, if a fire arises directly or indirectly any of the foregoing, 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;

- g. Mysterious disappearance or when revealed by inventory shortage;
- h. Dishonest or criminal act (including theft) by you, any of your partners, members, officers, managers, employees (including temporary employees and leased workers), directors, trustees or authorized representatives, whether acting alone or in collusion with each other or with any other party; or theft by any person to whom you entrust the property for any purpose, whether active along or in collusion with any other part. This exclusion: (1) Applies whether or not an act occurs during your normal hours of operation; (2) Does not apply to acts of destruction by your employees (including temporary employees and leased workers) or authorized representatives;
- i. **LOSS***, 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 beyond the demolition of any damaged portion of the **INSURED PROJECT*** no longer useful for its intended purpose;
- j. 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 **LOSS*** covered by this policy;

Nevertheless, if fire is not excluded from this policy and a fire arises directly or indirectly from actual release, discharge, escape or dispersal of **CONTAMINANTS OR POLLUTANTS***, any **LOSS*** covered under this policy arising directly from that fire is insured, subject to the provisions of this policy;

This exclusion shall not apply when **LOSS*** is directly caused by fire, lightning, aircraft impact, explosion, riot, civil commotion, smoke, vehicle impact, windstorm, hail, vandalism or malicious mischief, leakage or accidental discharge from automatic **FIRE PROTECTION SYSTEMS***;

- k. This policy does not cover:
 - (1) Asbestos material removal;
 - (2) Demolition or increased cost of reconstruction, repair, debris removal or loss of use necessitated by the enforcement of any law or ordinance regulating asbestos material;
 - (3) Any governmental order or direction declaring that asbestos material which is present in or part of or utilized on any portion of the **INSURED PROJECT*** must be removed or modified;
- l. Loss or damage covered under any written or implied guarantee or warranty by any manufacturer or supplier, but only to the extent of recovery from such written or implied guarantee or warranty;
- m. Subsidence, sinkhole, settling, cracking, expansion, contraction or shrinkage of walls, floors, ceilings, buildings, foundations, patios, roofs, walkways, driveways or pavements;
- n. Cessation of the work, whether total or partial, unless such cessation has been directly occasioned by **LOSS*** covered under the policy. Cessation of the work, as used herein, shall not mean:
 - any period of time during which operations would not normally have been conducted such as Saturdays, Sundays or Holidays, nor shall it mean seasonal inactivity planned in advance or labor actions beyond the Insured's control, provided the location of the **INSURED PROJECT*** is maintained and protected against **LOSS*** during such inactivity;
- o. Freeze, drought and hail, weight of ice or snow, but only as respects **EXTENSION OF COVERAGE - Trees, Plants, Shrubs and Landscaping**;
- p. Nesting or infestation, disease, or any damage caused by insects, vermin, rodents or animals;
- q. Erosion of graded or planted finish or rough grades which results from normally expected or predictable precipitation and surface water runoff;
- r. As respects Clause A.3.R – **PLANS, BLUEPRINTS, DRAWINGS, RENDERINGS, SPECIFICATIONS OR OTHER CONTRACT DOCUMENTS AND MODELS** - electrical or magnetic injury to or errors and omissions in creating, processing or copying electronic records, however caused;

- s. Mold, mildew, fungus, spores or other micro-organism of any type, nature, or description, including but not limited to any substance whose presence poses an actual or potential threat to human health. This exclusion applies regardless whether there is (i) any **LOSS*** to **PROPERTY INSURED***; (ii) any insured peril or cause, whether or not contributing concurrently or in any sequence; (iii) any loss of use, occupancy, or functionality; or (iv) any action required, including but not limited to repair, replacement, removal, cleanup, abatement, disposal, relocation, or steps taken to address medical or legal concerns;
- t. **LOSS*** to any program, software or operating system, programming instruction or data arising out of or resulting from any failure, malfunction, deficiency, deletion, fault, **VIRUS*** or corruption, including but not limited to, **LOSS*** resulting from any authorized or unauthorized access in, of or to any computer, communication system, file server, networking equipment, computer system, computer hardware, data processing equipment, computer memory, microchip, microprocessor (computer chip), integrated circuit or similar device in computer equipment, any program, computer software or operating systems, programming instructions or data;

To the extent coverage for equipment, hardware, media or device is provided in the policy, the following exclusion does not apply:

- (1) if any of the matters described above results solely from direct physical loss of or direct physical damage to the equipment, hardware, media or device on which the program, software or operating system, programming instructions, or data are transported, processed or contained;
- (2) to **LOSS*** to tangible **PROPERTY INSURED*** that results from any of the matters described above but limited to the perils of Fire and Explosion only;

For the purposes of this exclusion, program, software or operating system, programming instruction and data are not tangible property insured.

- u. 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.
- v. **LOSS*** to property stored in the open arising from, contributed to, or resulting from rain, snow, sleet or ice, all whether wind driven or not. This exclusion does not apply to property while located within the building or structure.
- w. 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.
- x. **LOSS***, claim, cost, expense or other sum, directly or indirectly arising out of, attributable to, or occurring concurrently or in any sequence with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.

For the purposes of this exclusion, **LOSS***, claim, cost, expense or other sum, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor or test for:

- (1) a Communicable Disease, or
- (2) any property insured hereunder that is affected by such Communicable Disease.

As used herein, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:

- (1) the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
- (2) the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
- (3) the disease, substance or agent can cause or threaten damage to human health or human welfare or can cause or threaten damage to, deterioration of, loss of value of, marketability of or loss of use of property insured hereunder.

2. **PROPERTY EXCLUDED:**

This policy excludes:

- a. Land and land values and the value of cut fill and backfill materials existing at the project site prior to project commencement; however, to the extent included in the contract bid documents and declared for premium purposes, the value of fill and backfill materials purchased for use in the completion of the project is not excluded. Notwithstanding the foregoing, labor and material charges incurred to move, remove, place or otherwise handle cut, fill and backfill materials, whether insured or uninsured in the foregoing, are covered to the extent such charges are included in the contract bid documents and declared for premium purposes;
- b. Contractor's tools, machinery, plant and equipment, including spare parts and accessories, whether owned, loaned, hired or leased, and property of a similar nature not destined to become a permanent part of the completed **INSURED PROJECT*** unless the value of the same is reported and additional premium is paid at rates and terms to be agreed;
- c. Vehicles or equipment licensed for highway use, rolling stock, aircraft or watercraft;
- d. Water, animals, standing timber and growing crops. This exclusion does apply to loss of water contained in any process equipment, tank or pipe;
- e. Accounts, bills, currency, food stamps or other evidences of debt, money, bonds, notes or securities, precious alloys or metals, or precious and semi-precious stones or other property of similar nature;
- f. Existing property at the location of the **INSURED PROJECT*** unless separately declared to the Company in advance and specifically endorsed to the Builders Risk policy;
- g. Property located at other than the location of **INSURED PROJECT*** except as covered under the Transit or Offsite Temporary Storage/Offsite Fabrication Extensions of Coverage;
- h. Prototype, developmental or used machinery and equipment but only as to damage while undergoing any form of testing, commissioning or startup unless specifically endorsed to the policy;
- i. Transmission and distribution lines outside of the **INSURED PROJECT***;
- j. **LOSS*** to **PROPERTY INSURED*** while covered by Ocean Marine Insurance or while waterborne in the course of ocean shipment;
- k. Any property while located at any site which stores processes or otherwise handles or makes use of radioactive materials unless reported to and accepted by the Company. The foregoing shall not apply to locations or property making use of radioactive isotopes contained within equipment used for diagnostic or testing purposes;
- l. Contraband or property in the course of illegal transportation or trade;
- m. Underground caverns, mines or mine shafts or any property contained therein.

PART C - DEFINITIONS

Wherever in this policy words or phrases appear in capitalized bold face type followed by an Asterisk, the following definitions will be applied in the interpretation of such words or phrases:

1. CONTAMINANTS OR POLLUTANTS:

Contaminants and 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, fungi, 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.

2. EARTH MOVEMENT:

Shall mean all earthquake, landslide, mudslide, mudflow, rock fall, tsunami, volcanic action, volcanic eruption, sinkhole collapse, subsidence or rock fall or other Earth Movement whether man-made or caused by natural phenomena.

If Earth Movement is excluded, this policy will cover the resulting damage if caused by the covered peril of sprinkler leakage.

3. ELECTRONIC DATA:

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 hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, 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 receive, process, store retrieve or send data.

4. FIRE PROTECTION SYSTEMS:

Tanks, water mains, hydrants, or valves, and any other equipment whether used solely for fire protection or jointly for fire protection and for other purposes but excluding:

- (1) branch piping from a joint system where such branches are used entirely for purposes other than fire protection.
- (2) any underground water mains or appurtenances located outside of the described premises and forming part of the public water distributing system.
- (3) any pond or reservoir in which the water is impounded by a dam.

5. FLOOD:

- (1) A general and temporary condition of complete inundation of normally dry land areas, including dewatered areas, from:
 - (a) The overflow of inland or tidal waters;
 - (b) The unusual and rapid accumulation or runoff of **SURFACE WATER***;
 - (c) Mudslides (i.e. mudflows) which are caused by flooding as defined in subparagraph (b) above and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current;
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the cyclical levels which result in flooding as defined in a (1) above. All whether driven by wind or not.
- (3) **FLOOD*** or storm surge as a result of a **NAMED WINDSTORM*** is excluded from this coverage.

The term **FLOOD*** shall not include Sewer Back up.

6. FUNGUS:

Fungus includes, but is not limited to, any of the plants or organisms belonging to the major group fungi, lacking chlorophyll, and including mold(s), rusts, mildews, smuts and mushrooms.

7. INSURED PROJECT:

The work which the Insured is contractually obligated to perform in accordance with the contract documents being more fully described and located as set forth in the Declarations.

8. LOSS:

Means accidental, direct physical loss or damage to the **PROPERTY INSURED***. **LOSS*** does not mean any indirect or ensuing loss that is not a direct result of actual physical damage to the **PROPERTY INSURED***, including but not limited to the presence of disease particles of any size, restrictions to access the work site whether imposed by any governmental entity or any other restrictions from any source that would affect the ability to access the site or continue work at the site.

9. MOLD:

Mold(s) includes, but is not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and fungi that produce mold(s).

10. NAMED WINDSTORM:

A storm that has been declared and or identified by the National Oceanic and Atmospheric Administration's (NOAA) National Hurricane Center, National Weather Service or similar governing body to be a Hurricane, Typhoon, Tropical Cyclone, Tropical Storm, or a Tropical Depression and includes storm surge, being defined as an offshore rise of water associated with a low pressure weather system, typically a tropical cyclone.

11. OCCURRENCE:

With the exception of the perils of **EARTH MOVEMENT***, **FLOOD***, **NAMED WINDSTORM***, **WINDSTORM***, riot, riot attending a strike, civil commotion, and vandalism and malicious mischief, **OCCURRENCE*** means an accident, incident, or a series of accidents or incidents arising immediately out of a single event or originating cause and includes all resultant or concomitant losses wherever located.

In respect of the perils of **EARTH MOVEMENT***, **FLOOD***, **NAMED WINDSTORM***, **WINDSTORM***, riot, riot attending a strike, civil commotion, and vandalism and malicious mischief, **OCCURRENCE*** shall mean all **LOSS*** arising during a continuous period of **one hundred sixty-eight (168)** hours during the term of this policy insofar as the limit of liability, sublimit of liability, aggregate limit of liability and the deductible provisions of the policy are concerned. The Insured may elect the moment when the **one hundred sixty-eight (168)** hour period begins, but no two such periods shall overlap. Such **EARTH MOVEMENT***, **FLOOD***, **NAMED WINDSTORM***, **WINDSTORM***, riot, riot attending a strike, civil commotion, and vandalism and malicious mischief shall be deemed to be a single **OCCURRENCE*** within the meaning of this policy. The Company shall not be liable for any such **LOSS*** occurring before the effective date and time or occurring after the expiration date and time of this Policy; however, the Company will be liable for any **LOSS*** occurring for a period, of up to seventy-two (72) consecutive hours after the expiration of this policy provided that the occurrence takes place prior to the date and time of the expiration of this policy.

12. PROPERTY INSURED:

- (1) Permanent Works - All materials, supplies, equipment, machinery, and other property of a similar nature, being property of the Insured or of others for which the Insured may be contractually responsible, the value of which has been included in the estimated value of the **INSURED PROJECT*** in the Declarations, all when used or to be used in or incidental to the demolition of existing structures, site preparation, fabrication or assembly, installation or erection or the construction of or alteration, renovation, rehabilitation of the **INSURED PROJECT***.
- (2) Temporary Works - All scaffolding, form work, fences, shoring, hoarding, false work and temporary buildings all incidental to the project and the value of which has been included in the estimated value of the **INSURED PROJECT*** in the Declarations.

13. SPORES:

Any dormant or reproductive body produced by or arising or emanating out of any fungus, mold(s), mildew, plants, organisms or microorganisms.

14. SURFACE WATER:

As used hereunder, shall mean seepage, leakage or influx of water (immediately derived from natural sources) through sidewalks, driveways, foundations, walls, basements or other floors, or through doors, windows or any other openings in such sidewalks, foundations, walls or floors.

15. TIER 1 & 2 COUNTIES AND PARISHES (in application of Named Windstorm):**Tier 1 Counties:**

Alabama	Baldwin and Mobile
Connecticut	Fairfield, Hartford, Litchfield, Middlesex, New Haven, New London and Tolland
Delaware	Sussex
Florida	All Counties
Georgia	Bryan, Camden, Chatham, Glynn, Liberty, and McIntosh
Hawaii	All Counties
Louisiana	Acadia, Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, LaFourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, and Washington
Maine	Androscoggin, Aroostook, Cumberland, Hancock, Kennebec, Knox, Lincoln, Oxford, Penobscot, Sagadahoc, Somerset, Waldo, Washington, and York
Maryland	Worcester
Massachusetts	Barnstable, Bristol, Dukes, Essex, Nantucket, Norfolk, Plymouth, and Suffolk
Mississippi	Hancock, Harrison, and Jackson
New Hampshire	Belknap, Carroll, Hillsborough, Merrimack, Rockingham and Strafford
New Jersey	Atlantic, Cape May, Monmouth, and Ocean
New York	Kings, Nassau, Queens, Richmond, and Suffolk
North Carolina	Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Currituck, Dare, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington
Rhode Island	Newport and Washington
South Carolina	Beaufort, Charleston, Colleton, Georgetown, Horry, and Jasper
Texas	Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Harris, Jefferson, Kennedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio, and Willacy
Virginia	Accomack, Alexandria, Arlington, Caroline, Charles City, Chesapeake, Chesterfield, Colonial Heights, Culpeper, Dinwiddie, Essex, Fairfax, Fairfax City, Falls Church, Fauquier, Franklin, Fredericksburg, Gloucester, Hampton, Hanover, Henrico, Hopewell, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Loudoun, Manassas City, Manassas Park City, Mathews, Middlesex, New Kent, Newport News, Norfolk, Northampton, Northumberland, Petersburg, Poquoson City, Portsmouth, Prince George, Prince William, Richmond, Richmond City, Southampton, Spotsylvania, Stafford, Suffolk, Surry, Sussex, Virginia Beach, Westmoreland, Williamsburg and York

Tier 2 Counties:

Alabama	Clarke, Covington, Escambia, Geneva, Monroe, and Washington
Delaware	Kent
District of Columbia	All
Georgia	Brantley, Charlton, Effingham, Long, and Wayne
Maryland	Anne Arundel, Baltimore, Baltimore City, Calvert, Caroline, Carroll, Cecil, Charles, Dorchester, Harford, Howard, Kent, Montgomery, Prince Georges, Queen Annes, St Mary's, Somerset, Talbot, and Wicomico
Massachusetts	Middlesex
Mississippi	George, Pearl River, and Stone
New Jersey	Burlington, Cumberland, Essex, Hudson, Middlesex, and Union
New York	Bronx, New York, and Westchester
North Carolina	Bladen, Columbus, Craven, Duplin, Gates, Hudson, Middlesex, and Union
Pennsylvania	Bucks, Chester, Delaware, Lancaster, Montgomery, Philadelphia, and York
Rhode Island	Bristol, Kent, Newport, Providence, and Washington
South Carolina	Berkeley, Dillon, Dorchester, Florence, Hampton, Marion, and Williamsburg
Texas	Bee, Brooks, Fort Bend, Goliad, Hardin, Hidalgo, Jackson, Jim Wells, Liberty, Live Oak, Orange, Victoria, and Wharton

16. TOTAL CONTRACT VALUE or TOTAL COMPLETED VALUE:

The total value of all property insured including, but not limited to, all wages, expenses, materials, supplies, equipment, change orders plus if declared, contractor's profit and overhead, existing structures (when coverage is included by endorsement) and such other charges, all whether provided by the owner, contractors or others, which will become a part of or will be expended in the project plus the value, if any, of **SOFT COSTS***, **RENTAL INCOME*** or **GROSS EARNINGS*** to be insured under the Delay In Completion Endorsement when applicable.

17. VIRUS:

Any software, data or code that affects the operation or functionality of any computer, communication system, file server, networking equipment, computer system, computer hardware, data processing equipment, computer memory, microchip, microprocessor (computer chip), integrated circuit or similar device in computer equipment, program, computer software or operating systems, programming instructions or data including, but not limited to, any destructive program, computer code, computer virus, worm, logic bomb, denial of service attack, smurf attack, vandalism, Trojan Horse or any other data introduced into any electronic system causing deletion, destruction, degradation, corruption, malfunction or compromise to data or electronic business systems.

18. WATER DAMAGE:

Means **LOSS*** as covered by this policy which is a result of leakage of fluids, liquids and gases caused by an insured peril other than the peril of **FLOOD***.

19. WINDSTORM:

Shall mean any naturally occurring movement other than **NAMED WINDSTORM*** including but not limited to wind, windborne debris, tornados and hail.

20. WORK

Shall mean the actual physical construction, installation, renovation/repair of a building, structure and or project has commenced and continues without delay.

PART D – GENERAL CONDITIONS

1. ALTERNATIVE DISPUTE RESOLUTION:

If the Company and the Named Insured disagree, after making a good faith effort to reach an agreement on an issue concerning this policy, either party may request that the following procedure be used to settle such disagreement:

- (1) The Company or the Named Insured may request of the other in writing that the dispute be settled according to an alternative dispute resolution procedure.
- (2) If the Company and the Named Insured agree to proceed, they will jointly select an alternative dispute resolution technique for resolution of the dispute.
- (3) If the parties cannot agree on a method to resolve the issue in dispute within sixty days of written request, the parties will contact either the Center for Public Resources or the American Arbitration Association and will use their services to select or devise a dispute resolution mechanism.
- (4) Alternative dispute resolution procedures that may be used include, but are not limited to, mediation, binding arbitration and mini-trials, except where prohibited by applicable law or regulation.
- (5) All expenses of the alternative dispute resolution procedure will be shared equally by both parties.
- (6) Any decision or award made as a result of the alternative dispute resolution procedure shall always be limited by the Coverage Terms and Conditions, Limits, Sublimits, Aggregate Limits of Liability, and deductibles of this policy.
- (7) Any statute of limitation that may be applicable to the dispute shall be tolled, with respect to such dispute, from the date that the Company and the Named Insured agree to follow the procedure set forth herein until and including the date that such procedure is concluded.

If the Named Insured so requests, the Company hereby agrees to use the alternative dispute resolution procedure described above to resolve all issues concerning this policy except the following:

- (1) Any dispute involving asbestos including **LOSS*** or debris removal expense.
- (2) Any dispute involving debris removal expense for **CONTAMINANTS OR POLLUTANTS***.
- (3) Any dispute where coverage is denied based on arson or other attempted fraud by the Named Insured.
- (4) Any dispute within the scope of and governed by the **APPRAISAL** clause, above.

2. APPRAISAL:

If the Insured and the Company disagree on the value 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 within **twenty one (21)** days after receiving a written request from the other. The two appraisers will select an umpire. If they cannot agree upon an umpire within **fifteen (15)** days, either may request the selection by a judge of a court having jurisdiction. The appraisers will then appraise the **LOSS***, stating separately the value of the property and the amount of **LOSS*** to each item. If they fail to agree, they will submit their differences to the umpire. A decision in writing, so itemized, of any two will be binding. Each party will pay its chosen appraiser and bear the other expense of the appraisal and umpire equally. If there is an appraisal, the Company will still retain the right to deny the claim.

3. ASSIGNMENT:

Except in the event of an authorized assignment under the Bankruptcy Act or a change of title by succession, operation of law or death, the Named Insured agrees not to transfer any legal rights or interests in the policy without the Company's written consent.

4. OBSERVANCE OF CONDITIONS:

The due observance and fulfillment of the terms and conditions of this policy by the Insured, insofar as they relate to anything to be done or complied with by them, shall be a condition precedent to any liability of the Company to make payment for **LOSS*** under this policy.

5. BANKRUPTCY OR INSOLVENCY:

Bankruptcy or insolvency of the Insured shall not relieve the Company of any of its obligations under this policy.

6. BRANDS & TRADEMARKS:

In case of **LOSS*** by an insured peril to **PROPERTY INSURED*** bearing a brand, trademark or label, the Company may take all or any part of the property at any agreed or appraised value. If so, the Insured may, at their own expense:

- (1) Stamp salvage on the property or its container, if the stamp will not physically damage the property; or
- (2) Remove the brand, trademark or label, if doing so will not physically damage the property. The Insured must re-label the property or its container to comply with the law.

7. CLAIM AGAINST TRANSIT CARRIER AND/OR BAILEE:

No claim for **LOSS*** during transit shall be payable hereunder until the Insured has filed a claim with and made reasonable efforts to secure payment from the transporting carrier and the carrier has denied liability.

8. CONFLICT OF WORDING:

The conditions contained in this coverage form shall supersede those of the printed conditions to which this form is attached, wherever the same may conflict. Where there is a conflict between the coverage form and the printed conditions of this policy, the conditions of the specific section shall prevail.

9. CONTRIBUTING INSURANCE:

Permission is granted for other policies written upon the same terms, exclusions, limitations and conditions as those contained herein. This policy will contribute to the total of each **LOSS*** otherwise payable herein to the extent of the participation of this policy in the total limit of liability as provided by all policies written upon the same terms, exclusions, limitations and conditions as those contained in this policy.

10. COVERAGE TERRITORY:

While located at the location of the insured project and while in transit within and / or offsite storage within the fifty (50) states comprising the United States of America, and within the District of Columbia including the territorial coastal waters of any of the foregoing.

11. DUPLICATE COVERAGE:

No claim for **LOSS*** resulting from **FLOOD*** or **NAMED WINDSTORM*** will result in payment under both coverages.

12. EXCESS INSURANCE:

Permission is granted for the Insured to have excess insurance over the limit of liability set forth in this policy without prejudice to this policy, nor will the existence of such insurance, if any, reduce any liability under this policy. Any other insurance that would have provided primary coverage in the absence of this Policy will not be considered excess.

13. IN THE EVENT OF LOSS*:

(1) You must see that the following are done in the event of **LOSS*** to **PROPERTY INSURED***:

- (i) Notify the police if a law may have been broken.
- (ii) Give us prompt notice of the **LOSS***. Include a description of the property involved.
- (iii) As soon as possible, give us a description of how, when and where the **LOSS*** occurred. Take all reasonable steps to protect the Property Insured from further damage, and keep a record of your expenses necessary to protect the Property Insured, 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*** resulting from a cause of loss that is not covered under this policy. Also, if feasible, set the damaged property aside and in the best possible order for examination.
- (iv) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- (v) As often as may be reasonably required, permit us to inspect the property proving the **LOSS*** and examine your books and records.
- (vi) 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.
- (vii) 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. We will supply you with the necessary forms.

(viii) Cooperate with us in the investigation or settlement of the claim.

- (a)** 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.
- (b)** After **LOSS*** to **PROPERTY INSURED***, there can be no abandonment of the **PROPERTY INSURED*** without the consent of the Company.

14. INCREASED HAZARD:

If the circumstances in which this insurance was entered into shall be altered or if the risk shall be materially increased, the Insured shall as soon as possible give notice in writing to the Company.

15. INSPECTION & AUDIT:

While this policy is in effect, the Company can, at any reasonable time, inspect the **PROPERTY INSURED*** and operations. However, neither the Company's inspection nor any report thereof can serve as any representation that the **PROPERTY INSURED*** or operations are safe or healthful, or that they comply with any law, rule or regulation.

With respect to an adjustment of a claim books and records will be kept by the Insured in such a manner that the total project cost of the work and the exact amount of any **LOSS*** covered by this policy can be accurately determined. The Company may examine and audit the Insured's books and records at any reasonable time during the policy period and within one year after the final termination of the policy, as long as they relate to the subject matter of this policy.

16. MISREPRESENTATION & FRAUD:

This policy shall be void if the Insured has concealed or misrepresented any material fact or circumstances concerning this insurance or the subject thereof, or in case of any fraud, attempted fraud or false swearing by the Insured touching any matter relating to this insurance or the subject thereof, whether before or after a **LOSS***.

17. MORTGAGE HOLDERS:

- (1)** **LOSS*** to the **PROPERTY INSURED*** under this policy will be payable to the mortgagee (or trustee) as named in this policy or on an ACORD Certificate of Insurance issued to confirm coverage under this policy, as their interest may appear, under all present or future mortgages upon the property insured in which the aforesaid may have an interest as mortgagee (or trustee) in order of precedence of said mortgages and this insurance, as to the interest of the mortgagee (or trustee) only therein, will not be invalidated by any act or neglect of the mortgagor or owner of the property insured, or by any foreclosure or other proceedings or notice of sale relating to the property insured, nor by any change in the title or ownership of the property insured, nor by the occupation of the **INSURED PROJECT*** for purposes more hazardous than are permitted by this policy, provided, that if the mortgagor or owner neglects to pay any premium due under this policy, the mortgagee (or trustee) will, on demand, pay the same.
- (2)** Provided also that the mortgagee (or trustee) will notify the Company of any change in ownership, occupancy or increase in hazard which becomes known to them and, unless permitted by this policy, it will be noted thereon and the mortgagee (or trustee) will, on demand, pay the premium for such increased hazard for the term of the use thereof, otherwise this policy will be null and void.
- (3)** The Company reserves the right to cancel this policy at any time as provided by its terms, but in such case this policy will continue in force for the benefit of the mortgagee (or trustee) for ten (10) days after notice to the mortgagee (or trustee) of such cancellation and will then cease, and the Company will have the right, on like notice, to cancel this agreement.

Whenever the Company will pay the mortgagee (or trustee) any sum for **LOSS*** under this policy and will claim that, as to the mortgagor or owner, no liability therefore existed, the Company will, to the extent of such payment, be thereupon legally subrogated to all rights of the party to whom such payment will 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 principle due or to grow due on the mortgage with interest, and will thereupon receive a full assignment and

transfer of the mortgage and of all such other securities; but no subrogation will impair the right of the mortgagee (or trustee) to recover the full amount of said mortgagee's (or trustee's) claim.

18. NO BENEFIT TO BAILEE:

No person or organization, other than an insured, having custody of **PROPERTY INSURED*** will benefit from this policy.

19. OTHER INSURANCE:

Except as stated in **CONTRIBUTING INSURANCE** and **EXCESS INSURANCE** above, if there is other collectible insurance, this policy will cover as excess insurance and will not contribute with such other insurance.

20. PAIR & SET:

- (1) In the event of **LOSS*** to any insured article or articles which are part of a pair or set, the measure of loss of or damage to such article or articles will be a 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 will such **LOSS*** be construed to mean total loss of the pair or set; or
- (2) In the event of **LOSS*** to any part of **PROPERTY INSURED*** consisting, when complete for use, of several parts, the Company will only be liable for the value of the part lost or damaged.

21. PARTIAL LOSS:

The Company hereby grants permission to repair any partial damage to the **PROPERTY INSURED*** which can be conveniently and advantageously undertaken by the Insured. The Company will reimburse the Insured who has suffered the **LOSS*** for the actual cost of such repairs, subject always to the applicable deductible and limits of liability stated in the Declarations. Nothing in this clause shall be deemed to have waived the requirement that notice of loss be given forthwith to the Company as provided in this policy.

22. PROTECTION OF PROPERTY:

The Insured will take reasonable and necessary steps to protect, recover or save the **PROPERTY INSURED*** and minimize any further or potential **LOSS*** when the **PROPERTY INSURED*** is in imminent danger of sustaining **LOSS*** from:

- (1) **NAMED WINDSTORM***, **WINDSTORM*** or other related perils, but only when the potential for the same to occur has been forecasted by the National Weather Service or similar recognized weather forecast service(s);
- (2) **FLOOD***, but only when the potential for the same to occur has been forecasted by the National Weather Service or the U.S. Army Corps of Engineers;
- (3) Fire;

The acts of the Insured or the Company in protecting, recovering or saving the property insured will not be considered a waiver or an acceptance of abandonment. The Insured and the Company will bear the expense incurred proportionate to their respective interests.

The foregoing shall not serve to increase the Limit of Liability stated in the Declarations and shall be subject to the deductible provisions of the policy.

23. RECOVERY OR SALVAGE:

Any recovery or salvage excluding proceeds from subrogation and other insurance recovered or received after a loss settlement under this policy or any recovery from surety ship, insurance, reinsurance, security or indemnity taken by or for the benefit of the Company will apply as if recovered or received prior to the loss settlement and the **LOSS*** will be readjusted accordingly.

24. REINSTATEMENT:

With the exception of **LOSS*** caused by perils or coverage which is subject to an aggregate limit, any **LOSS*** hereunder will not reduce the amount of this policy.

25. STATUTES:

If any Article(s) herein stated conflict with the laws or statutes of any jurisdiction within which this policy applies, such Article(s) are hereby amended to conform to said laws or statutes.

26. SUBROGATION:

If the Company pays a claim under this policy, it will be subrogated, to the extent of such payment, to all the Insured's rights of recovery from other persons, organizations and entities. The Insured will execute and deliver instruments and papers and do whatever else is necessary to secure such rights.

The Company will have no rights of subrogation against:

- (1) Any person or entity, which is a Named Insured or an Additional Insured, as referenced in the Policy Declarations;
- (2) Any other person or entity, which the Insured has waived its rights of subrogation against in writing before the time of **LOSS***;

Notwithstanding the foregoing, it is a condition of this policy that the Company shall be subrogated to all the Insured's or Additional Insured(s)' rights of recovery against:

- (1) any Architect or Engineer, whether named as an Insured or not, for any loss or damage arising out of the performance of professional services in their capacity as such and caused by an error, omission, deficiency or act of the Architect or Engineer, by any person employed by them or by any others for whose acts they are legally liable, and;
- (2) any manufacturer or supplier of machinery, equipment or other property, whether named as an Insured or not, for the cost of making good any loss or damage which said party has agreed to make good under a guarantee or warranty, whether expressed or implied.

The Insured will act in concert with the Company and all other interest concerned in the exercise of such rights of recovery. The Insured will do nothing after a loss to prejudice such rights of subrogation. If any amount is recovered as a result of such proceedings, the net amount recovered after deducting the costs of recovery, will accrue first to the Company. Any excess of this amount will be remitted to the Insured. If there is no recovery, the interests instituting the proceedings will bear the expense of the proceedings proportionately.

27. SUIT AGAINST THE COMPANY:

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 or process in such suit may be made upon Counsel,

IF PROJECT IS LOCATED IN THE STATE OF CALIFORNIA:

FLWA Service Corp, c/o Foley & Lardner LLP
555 California Street, Suite 1700
San Francisco, California, 94104-1520

IF THE PROJECT IS LOCATED IN ANY STATE OTHER THAN CALIFORNIA:

Lloyd's America, Inc.
Attention: Legal Department
280 Park Avenue, East Tower, 25th Floor
New York, NY 10017

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 therefore, the Company hereby designates the Superintendent, Commissioner or Director of Insurance, 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 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.

No suit, action or proceeding against the Company or this policy for the recovery of any claim will be sustainable in any court of law or equity unless the Insured will have fully complied with all the requirements of this policy. The Company agrees that any action or proceeding against it for recovery of any **LOSS*** under this policy will not be barred if commenced within **(12) twelve** months after the **OCCURRENCE*** become known to the Insured unless a longer period of time is provided by applicable statute.

28. TITLES OF PARAGRAPHS:

The several titles of the various paragraphs of this form and endorsements attached to this policy are inserted for reference and shall not be deemed in any way to affect the provisions to which they relate.

29. UNDERLYING INSURANCE:

Permission is given for the Insured to purchase insurance on all or any part of the deductible(s) or perils of this policy. The existence of such underlying insurance shall not prejudice or affect any recovery otherwise payable under this policy. If the limits of liability of such other insurance are greater than this Policy's applicable deductible, this Policy's insurance will apply only after such other insurance has been exhausted.

30. VALUATION:

At the time and place of **LOSS***, the basis of adjustment of a claim, unless otherwise endorsed herein, shall be as follows:

- (1) Property Under Construction** – Cost to repair or replace the property lost or damaged at the time and place of **LOSS* LOSS*** with material of like kind and quality less betterment including contractor's profit and overhead and including owner's indirect expenses to the extent declared as part of the **TOTAL COMPLETED VALUE***, but in no event to exceed the Limit of Liability; if not so replaced then loss shall be settled on the basis of Actual Cash Value with proper deduction for depreciation;
- (2) Property Of Others** (Including Items Supplied by the Owner) - at owner's cost or other actual cash value, whichever is greater, including the contractor's charges;
- (3) Temporary Works** - Cost to repair or replace the property lost or damaged with material of like kind, quality and condition but in the event not replaced recovery will not exceed Actual Cash Value;
- (4) Plans, Blueprints, Drawings, Renderings, Specifications or Other Contract Documents and Models** – At the cost to reproduce the property with other property of like kind and quality including the cost of gathering or assembling information from back up data if replaced, or if not replaced, at the value of blank material;
- (5) Trees, Shrubs, Plantings and Landscaping** - At cost to replace with property of like kind, quality and size plus the proper proportion of labor expended if such damage occurs after installation.
- (6) Property In Transit** – The invoice cost plus accrued shipping charges less shipper's liability, if any.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Endorsement #: 1

* THIS INFORMATION IS COMPLETED ONLY WHEN THIS ENDORSEMENT IS ISSUED SUBSEQUENT TO PREPARATION OF THE POLICY.

Company Name* : As Per Schedule of Insurers

Policy Number: CSN0010727

Named Insured* : Town of Golden Beach

Policy Effective Date: 08/06/2021

Producer* : Wholesales Trading Insurance Services, LLC

Endt. Effective Date: 08/06/2021

CYBER LOSS LIMITED EXCLUSION

I. The following exclusion is added to Part B- EXCLUSIONS AND LIMITATIONS, 1. EXCLUSIONS:

y. Cyber loss meaning:

- (1) any **LOSS***, damage, liability, expense, fine or penalties, or any other amount directly or indirectly caused by:
 - A. the authorized or unauthorized use, access, or operation of any **COMPUTER SYSTEM*** or **COMPUTER NETWORK*** including **ELECTRONIC DATA***;
 - B. any threat of or any hoax relating to y. (1) A. above;
 - C. any denial of service attack which disrupts, prevents, or restricts access to or use of any **COMPUTER SYSTEM***, or otherwise disrupts its normal functioning or operation;
- (2) any **LOSS*** of, alteration of, or damage to or a reduction in the functionality, availability or operation of a **COMPUTER SYSTEM***; or
- (3) any loss of use, reduction in functionality, repair, replacement, restoration or reproduction of any **ELECTRONIC DATA***, including any amount pertaining to the value of such **ELECTRONIC DATA***.

Such Cyber loss is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the **LOSS***. However, if fire and/or explosion is not excluded from this policy and a fire or explosion arises directly or indirectly from any of the events described in this exclusion, any **LOSS*** to **PROPERTY INSURED*** covered under this policy arising directly from that fire or explosion is insured, subject to the provisions of this policy.

II. Solely for purposes of this endorsement, the following definitions are added to PART C – DEFINITIONS:

COMPUTER SYSTEM* means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility.

COMPUTER NETWORK* means a group of **COMPUTER SYSTEMS*** and other electronic devices or network facilities connected via a form of communications technology, including the internet, intranet, and virtual private networks (VPN), allowing the networked computing devices to exchange **ELECTRONIC DATA***.

Authorized Representative

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY. **Endorsement #:** 2
* THIS INFORMATION IS COMPLETED ONLY WHEN THIS ENDORSEMENT IS ISSUED SUBSEQUENT TO PREPARATION OF THE POLICY.

Company Name* :	As Per Schedule of Insurers	Policy Number:	CSN0010727
Named Insured* :	Town of Golden Beach	Policy Effective Date:	08/06/2021
Producer* :	Wholesales Trading Insurance Services, LLC	Endt. Effective Date:	08/06/2021

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 organization(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.



Authorized Representative

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.



ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY. **Endorsement #:** 3
* THIS INFORMATION IS COMPLETED ONLY WHEN THIS ENDORSEMENT IS ISSUED SUBSEQUENT TO PREPARATION OF THE POLICY.

Company Name* :	As Per Schedule of Insurers	Policy Number:	CSN0010727
Named Insured* :	Town of Golden Beach	Policy Effective Date:	08/06/2021
Producer* :	Wholesales Trading Insurance Services, LLC	Endt. Effective Date:	08/06/2021

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.

A handwritten signature in blue ink, appearing to read "R. Anderson", is written over a horizontal line.

Authorized Representative

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.