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CASE NO: A-20-816145-C
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15 Attorneys for Plaintiff
HAKKASAN USA, INC.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

18 HAKKASAN USA, INC., a Delaware Corporation;

Case No.
Dept. No.

19 Plaintiff,

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

20 vs.

**Exempt from Arbitration: Declaratory
Relief Sought and Amount in
Controversy Greater Than \$50,000**

21 ENDURANCE AMERICAN SPECIALTY
22 INSURANCE COMPANY, a Delaware
Corporation;
23 SOMPO INTERNATIONAL HOLDINGS, LTD., a
Bermuda Corporation;
24 WILLIS OF ARIZONA, INC., an Arizona
Corporation; and WILLIS TOWERS WATSON
25 INSURANCE SERVICES WEST, INC., a
California Corporation

**Business Court Requested – EDCR 1.61 –
Business Tort Claims/Enhanced Case
Management**

26 Defendants.
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1 Plaintiff Hakkasan USA, Inc. (“Hakkasan”) complains of Defendants Endurance American
2 Specialty Insurance Company (“Endurance”), and Endurance’s successor-in-interest, Sompo
3 International Holdings, Ltd. (collectively with Endurance, “Sompo”), Willis of Arizona, Inc. and
4 its successor-in-interest Willis Towers Watson Insurance Services West, Inc. (collectively,
5 “Willis”), and alleges as follows:

6 **NATURE OF THIS ACTION AND RELIEF SOUGHT**

7 1. Plaintiff Hakkasan is associated with Hakkasan Group, a worldwide hospitality
8 company that operates a diverse collection of restaurant, nightlife, and daylife brands, including
9 seven high-end establishments located in Las Vegas, Nevada.

10 2. Defendant Sompo is a sophisticated insurance company, is familiar with and
11 understands the needs and businesses of its corporate insureds, and holds itself out as an insurer
12 that provides expeditious and equitable claims handling. In the words of its website:

13 We deliver:

- 14 • Fair and appropriate outcomes for our insureds
15 • Efficient service, timely responses and fast payment of agreed claims
16 • Value-added expertise from product and industry specialists
17 • We are trusted advisors to our clients, bringing knowledge of the nuances of
18 each particular jurisdiction.

19 [<https://www.sompo-intl.com/services/insurance-claims/>]

20 3. Sompo sold Hakkasan a \$350,000,000 per occurrence Commercial Property
21 Surplus Lines insurance policy (the “Policy”). The primary purpose of the Policy was to provide,
22 among other benefits, protection against risk of losses to Hakkasan’s U.S. locations.

23 4. Willis acted as Hakkasan’s insurance broker in respect to negotiating the terms of
24 the Policy, preparing insurance proposals for the Policy and other competing options, procuring
25 the Policy, and facilitating and advising about claims under the Policy.

26 5. The Policy specifically insures against, among other things, losses resulting from
27 “the cancellation of, and/or inability to accept bookings or reservations for accommodation,
28 receive admissions, and/or interference with the business at any insured location” as a result of

1 “contagious or infectious disease (including decontamination and clean up costs)” and/or
2 “outbreak of a contagious and/or infectious disease” within five miles of any insured location.
3 The Policy also covers losses incurred due to the “closing of the whole or part of the premises of
4 the Insured either by the Insured or by order of a Public Authority consequent upon the existence
5 or threat of hazardous conditions either actual or suspected at an insured location . . .”

6 6. Hakkasan’s venues around the country were suffering extensive business income
7 and other losses as early as February 2020 due to COVID-19 and the travel restrictions and health
8 and safety measures that started to take place at that time. Subsequently, the government-
9 mandated closures of all non-essential businesses in all jurisdictions in which Hakkasan’s venues
10 are located resulted in the full cessation of its operations at the venues and significant business
11 income losses expressly covered by the Policy.

12 7. Hakkasan timely and appropriately notified Willis regarding its losses and its intent
13 to submit a claim to Sompo and requested Willis prepare and submit the claim.

14 8. Specifically, Hakkasan requested Sompo cover those losses and the ongoing losses
15 under all available terms of the Policy including its Special Time Element – Cancellation coverage
16 (the “Claim”).

17 9. But instead of considering the interests of Hakkasan, Sompo conspired with Willis
18 in an attempt to issue a back-dated endorsement to the Policy *after* Hakkasan’s losses began and
19 after Hakkasan had already notified Willis of its losses and its Claim.

20 10. The backdated endorsement—submitted to Willis without Hakkasan’s knowledge
21 or consent—purported to reduce the limits of insurance for the Claim from the full Policy limits of
22 \$350,000,000 per occurrence to a sublimit of \$1,500,000.

23 11. Sompo and Willis further conspired to fraudulently conceal the circumstances upon
24 which the backdated endorsement was created in order to induce Hakkasan to accept a lower limit
25 and settlement than it would otherwise be entitled to under the Policy.

26 12. By their actions, Willis and Sompo have sought to deprive Hakkasan of the
27 financial security and protection that were the primary reasons for Hakkasan’s purchase of the
28 Policy.

1 13. Instead of honoring its duties, Sompo has improperly refused to cover and refused
2 to agree to cover Hakkasan for any of its losses over \$1,500,000, even though (a) Sompo
3 acknowledges that the Policy provides coverage for the Claim at issue; (b) the Policy provides
4 “per occurrence” limits; (c) and the applicable Policy limits are \$350,000,000 per occurrence.

5 14. Willis’s and Sompo’s conduct is in breach of contract, in violation of applicable
6 insurance statutes and standards of care, is contrary to the duty of good faith and fair dealing owed
7 to Hakkasan, and constitutes a civil conspiracy, fraud and the intentional interference with
8 contractual relations.

9 THE PARTIES

10 15. Plaintiff Hakkasan USA, Inc., is a corporation organized under the laws of
11 Delaware, with its principal place of business located at 6385 S. Rainbow Blvd, Las Vegas,
12 Nevada 89118.

13 16. Plaintiff is informed and believes, and based thereon alleges, that Defendant
14 Endurance American Specialty Insurance Company is incorporated in Delaware with its principal
15 place of business in New York, New York and conducts business in Nevada.

16 17. Plaintiff is informed and believes, and based thereon alleges, that Defendant Sompo
17 International Holdings Ltd. is a Bermuda-based foreign insurer that was created by Sompo
18 Holdings as a wholly-owned subsidiary to succeed to the interests of and carry on the business of
19 Endurance American Specialty Insurance Company.

20 18. “Sompo” is defined herein to collectively refer to Defendants Endurance American
21 Specialty Insurance Company (“Endurance”), and Endurance’s successor-in-interest, Sompo
22 International Holdings, Ltd. Claims against “Sompo” include both entities.

23 19. Plaintiff is informed and believes, and based thereon alleges, that Defendant Willis
24 of Arizona, Inc. was incorporated in Arizona and previously conducted business in Nevada.

25 20. Plaintiff is informed and believes, and based thereon alleges, that in December
26 2019, Defendant Willis Towers Watson Insurance Services West, Inc. merged with and succeeded
27 to the interests of Willis of Arizona, Inc.

1 THE POLICY

2 29. In exchange for the payment of a substantial annual premium, Hakkasan purchased
3 insurance coverage from Sompo under a commercial property insurance policy to protect against
4 risk of, among other things, business income losses related to the interference of its business at
5 any or all of its covered locations.

6 30. Sompo sold to Hakkasan a Commercial Property Surplus Lines Insurance Policy
7 number ARL30001017500, in effect from April 1, 2019 to April 1, 2020 (previously defined as
8 the "Policy").

9 31. The Policy provides Hakkasan's U.S. locations with \$350,000,000 per occurrence
10 in coverage subject to various deductibles and sublimits.

11 32. In exchange for this coverage, Hakkasan paid Sompo \$325,000 in annual premium.

12 33. A true and correct copy of the Policy is attached hereto as Exhibit I and
13 incorporated by reference.

14 34. Hakkasan USA, Inc. is the Named Insured under the Policy, which also insures
15 Hakkasan's subsidiary organizations and their subsidiaries, additional "Named Insureds" and
16 "[a]ny other organization coming under the Insured's control when the Insured assumes its actual
17 management." Policy, § I.

18 35. The Policy defines "Occurrence" as "any one accident, loss, disaster, casualty,
19 incident or series of accidents, losses, disasters, casualties or incidents, including all resultant or
20 concomitant insured losses, not otherwise excluded by this Policy, arises out of a single event or
21 originating cause." *Id.*, § VI.

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1 36. The Policy's "Specialty Clause Endorsement" extends coverage to include "Special
2 Time Element - Cancellation Coverage," which Sompso acknowledges is triggered by the Claim.

3 The Special Time Element - Cancellation Coverage provides:

4 Notwithstanding that Time Element loss insured under this Policy must be caused
5 by or result from loss, damage or destruction not otherwise excluded, this Policy is
6 extended to insure the actual loss sustained by the Insured resulting from the
7 cancellation of, and/or inability to accept bookings or reservations for
8 accommodation, receive admissions, and/or interference with the business at any
9 insured location all as a direct result of the "Occurrence" of:

10 ...

11 ii. contagious or infectious disease (including decontamination and clean up costs);

12 ...

13 iv. any of the following that occur within a radius of five (5) miles of an insured
14 location, to the extent such Time Element loss is not otherwise insured elsewhere in
15 this policy;

16 (a) outbreak of a contagious or infectious disease

17 ...

18 v. closing of the whole or part of the premises of the Insured either by the Insured
19 or by order of a Public Authority consequent upon the existence or threat of
20 hazardous conditions either actual or suspected at an insured location;

21

22 Coverage provided under Special Time Element – Cancellation Coverage shall not
23 conflict or reduce coverage provided elsewhere in this policy, most notably
24 Contingent Time Element, Interruption by Civil or Military Authority, or Loss of
25 Ingress or Egress.

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27 The coverages stated above are subject to the sublimits of liability as shown in
28 Paragraph F. OTHER SUBLIMITS FOR LOSS ARISING OUT OF ONE
OCCURRENCE in the Declarations section of the policy as is subject to the Policy
provisions, including applicable exclusions and deductibles, all as shown in this
section and elsewhere in this Policy.

37. Paragraph F of the Declarations Section of the Policy does not identify any sublimit
for the Special Time Element – Cancellation Coverage. Therefore, the only applicable identified,
disclosed, and agreed-upon limit is the \$350,000,000 per occurrence limit.

1 38. To the extent not waived or otherwise excused, Hakkasan has complied with all
2 terms and conditions precedent, including payment of undisputed premiums and notice, contained
3 in the Policy. Hakkasan therefore is entitled to all benefits of insurance provided by the Policy.

4 **FACTUAL BACKGROUND AND GENERAL ALLEGATIONS**

5 **Hakkasan's Operations**

6 39. Hakkasan operates world-class restaurants, nightclubs and entertainment venues
7 throughout the United States and abroad. Several of its restaurants have been awarded Michelin
8 stars and its nightclubs are among the top-ranked in the world.

9 40. Hakkasan is based in Las Vegas, Nevada, where it operates numerous restaurants
10 and entertainment venues. Hakkasan is frequently touted by the press and industry experts as “the
11 Las Vegas Strip’s leading nightlife company.”

12 41. Hakkasan’s properties include Hakkasan Nightclub at the MGM Grand Hotel and
13 Casino and OMNIA Nightclub at Caesars Palace in Las Vegas—two of the largest and most
14 technologically-advanced entertainment venues in the world. Hakkasan also operates Wet
15 Republic Pool and Level Up at MGM Grand, Jewel Nightclub and Liquid Pool at Aria Resort and
16 Casino, Searsucker restaurant at Caesar’s Palace, and Hakkasan’s namesake restaurant at the
17 MGM Grand Hotel and Casino.

18 42. Hakkasan operates other venues across the United States and around the world. Its
19 domestic locations include high-end restaurants in New York, California, Florida, and Hawaii.

20 **The COVID-19 Pandemic**

21 43. COVID-19 is an infectious disease caused by a recently discovered novel
22 coronavirus known as SARS-CoV-2 (“COVID-19”).

23 44. COVID-19 was previously unknown to humans and is not traditionally present in
24 the natural environment.

25 45. The first instances of the disease spreading to humans were diagnosed in or around
26 December 2019.

27 46. COVID-19 is spread through contact with viral particles, via on surfaces, through
28 airborne exposure, or other means.

1 47. COVID-19 has unexpectedly and pervasively spread throughout the United States
2 in recent months.

3 48. As the virus has spread, health experts and government officials have recognized
4 that its presence is so pervasive and dangerous to human life that it should be assumed to be
5 present in all spaces open to the public.

6 49. State and health officials have promulgated varying closure and shelter-in-place
7 orders, guidelines and restrictions per municipality intended to mitigate the spread and resulting
8 damage due to COVID-19. These include major restructuring and limitations of business
9 operations to facilitate public safety and mitigate and remediate viral spread.

10 **Hakkasan Suffers Covered Losses**

11 50. Due to the pervasive COVID-19 outbreaks in the immediate vicinity of its
12 restaurants and venues, and the corresponding governmental responses to the outbreaks in various
13 locations, Hakkasan has suffered damage to property, clean-up costs, cancellations and business
14 interruption expenses, among other losses.

15 51. Hakkasan began sustaining business income losses in February 2020. Since then,
16 Hakkasan has had to close its venues to the public across its entire portfolio and cancel significant
17 banquet events and refund ticket sales. As of the date of filing, none of the venues have reopened
18 to the public and losses continue. Approximately 1,300 of Hakkasan's Nevada employees have
19 lost their employment due to these closures and hundreds more of Hakkasan's employees in other
20 regions of the United States have lost their jobs. Recently, Hakkasan has been forced to
21 permanently close certain of its venues due to the catastrophic losses it suffered at each of these
22 venues in varied geographic locations around the country.

23 52. In addition, the various closures have resulted in property damage, the loss of
24 perishable items, and cleaning costs of venues due to known and suspected COVID-19 virus on
25 the premises. Given the ongoing nature of the government-ordered closures, required health and
26 safety measures and the continued pervasiveness of COVID-19 in the communities and vicinities
27 in which Hakkasan's domestic venues operate, losses are ongoing and cannot be fully determined
28 yet.

1 **Hakkasan Instructs Willis to Tender the Claim**

2 53. Hakkasan contracted with Willis to provide brokerage and claims-handling services
3 in relation to the Policy, among numerous other insurance policies procured by Willis for
4 Hakkasan over the last 5 years, and compensated Willis for these services.

5 54. In February 2020, Hakkasan notified Willis that it expected to suffer covered losses
6 and was preparing to submit a claim under the Policy.

7 55. After receiving its financial results for February 2020, Hakkasan instructed Willis
8 to formally tender the Claim.

9 **Willis Conspires With Sampo To Issue an Invalid Backdated Endorsement**

10 56. When Hakkasan first began to inquire about its coverage under the Policy and its
11 intent to make the Claim, Willis's attorneys internally analyzed the coverage afforded by the
12 Policy and found that the full \$350,000,000 limits applied to Hakkasan's "Special Time Element
13 Cancellation Coverage."

14 57. Out of concern for the business relationship between Willis and Sampo, and
15 without notifying Hakkasan or obtaining approval from Hakkasan to violate the duties owed to
16 Hakkasan, Willis contacted Sampo to inform Sampo of the impending Claim for which there was
17 no stated sublimit in the Policy.

18 58. Hakkasan had no direct contact with Sampo at this time, and therefore Sampo
19 could not have known about Hakkasan's impending Claim, or the timing thereof, without Willis
20 having told Sampo in advance of the pending Claim.

21 59. In response, and almost one year after the Policy was issued, Sampo attempted to
22 issue a backdated "General Change Endorsement" (the "Endorsement") purporting to add a
23 "Special Time Element Cancellation Coverage" sublimit of \$1,500,000 to the Policy, effective
24 April 1, 2019. A true and correct copy of the invalid Endorsement is attached as Exhibit 2.

25 60. Neither Sampo nor Willis advised Hakkasan of the intent to issue an endorsement
26 eleven months after the Policy incepted, without the consent of Hakkasan.

27 61. Sampo sent the Endorsement to Willis on March 9, 2020.

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1 62. The terms of the Endorsement state that the Endorsement was intended to amend
2 and change the Policy.

3 63. Indeed, the Endorsement was intended to drastically reduce the available coverage
4 for Hakkasan's Claim under the Policy.

5 64. Willis did not tell Hakkasan about the Endorsement, but proceeded to purport to
6 "accept" the Endorsement on Hakkasan's behalf without Hakkasan's knowledge or consent.

7 65. Willis attempted to accept the Endorsement knowing that Hakkasan had a pending
8 claim and would never agree to a retroactive modification of the Policy to its detriment.

9 66. Willis was acting without Hakkasan's authority, knowledge, or consent, and in
10 direct contravention of Hakkasan's interests.

11 67. On March 16, 2020, Willis submitted the Claim to Sampo.

12 68. Despite having received an endorsement to the Policy that, if effective, would have
13 changed the applicable Policy limits from \$350,000,000 per occurrence to \$1.5 million and
14 knowing that a Claim had already been made that would have been affected by the Endorsement,
15 Willis did not provide the Endorsement or any notice of the Endorsement to Hakkasan until May
16 26, 2020—only after Hakkasan became aware of its possible existence and demanded the
17 document from Willis.

18 **Willis and Sampo Engage In Further Delay And Misrepresentation**

19 69. On March 16, 2020, Sampo acknowledged receipt of the Claim.

20 70. Despite having all of the information necessary to do so, Sampo did not provide
21 Hakkasan with a coverage position.

22 71. Instead, and in an attempt to delay issuance of a coverage position and payment on
23 the Claim, Sampo sent several evolving requests for detail regarding the loss.

24 72. Hakkasan promptly responded to Sampo's information requests to the best of its
25 ability, as its losses were ongoing.

26 73. In the meantime, Willis reached out to Hakkasan and suggested that Willis could
27 facilitate a settlement of Hakkasan's outstanding Special Time Element Claim with Sampo for
28 \$1,500,000, the purported "limit" of coverage under the Endorsement in Willis' possession.

1 74. Willis made no mention of the Endorsement when attempting to solicit a settlement
2 from Hakkasan.

3 75. This settlement request coming from Hakkasan's broker was highly unusual and
4 Hakkasan already had reviewed the Policy and confirmed that the Special Time Element –
5 Cancellation coverage had no limit other than the \$350,000,000 per occurrence limit.

6 76. Willis did not inform Hakkasan of the Endorsement it facilitated and had received
7 on March 9, 2020, when it later suggested that Hakkasan settle the Claim at \$1,500,000, despite
8 Hakkasan's growing losses and the available policy limits of \$350,000,000 per occurrence.

9 77. On April 17, 2020, Hakkasan's General Counsel wrote to Sampo providing further
10 detail regarding the Claim and asking for Sampo to provide its coverage position. Sampo did not
11 respond to the request for its coverage position.

12 78. On May 1, 2020, Hakkasan's General Counsel again wrote to Sampo to request a
13 coverage position. Sampo again failed to respond to the request for its coverage position.

14 79. On May 20, 2020, Hakkasan's outside counsel wrote to Sampo demanding a
15 coverage position by May 22, 2020.

16 80. Sampo finally responded in a letter dated May 22, 2020. A true and correct copy
17 of this letter is attached hereto as Exhibit 3.

18 81. In its May 22, 2020 letter, Sampo issued further requests for detailed answers to
19 dozens of questions regarding Hakkasan's losses (which due to the ongoing nature of the losses
20 cannot be fully quantified to date).

21 82. Sampo's letter suggested it was only willing to provide Hakkasan with Sampo's
22 "limited" "views regarding coverage" pending this information even though the Claim was made
23 more than two months earlier.

24 83. Sampo's letter then listed out what Sampo characterized as the "potentially
25 applicable" policy provisions.

26 84. These included "General Change Endorsement No. 1", the backdated Endorsement
27 that fraudulently purported to add to the Policy a \$1,500,000 sublimit for Special Time Element –
28 Cancellation Coverage.

1 85. In its letter, Sampo contended that this Endorsement was effective as of the Policy
2 effective date of April 1, 2019, but notably did not inform Hakkasan that the Endorsement was
3 actually issued on March 9, 2020.

4 86. In its May 22, 2020 letter, Sampo acknowledged that the Special Time Element –
5 Cancellation Coverage “appears to have been triggered by [Hakkasan’s] claim” but
6 misrepresented that the coverage was subject to the \$1,500,000 sublimit provided in General
7 Change Endorsement No. 1.

8 87. In its letter, Sampo reserved all rights, including its right to modify its coverage
9 position.

10 88. Willis did not disclose the backdated Endorsement to Hakkasan, until May 26,
11 2020 when Hakkasan forwarded Sampo’s letter to Willis and demanded information and the
12 purported Endorsement it had never seen or been made aware of.

13 89. After being pressed for information regarding the Endorsement, Willis
14 acknowledged that one of its representatives had coordinated the purported issuance of the
15 backdated Endorsement without Hakkasan’s knowledge or consent.

16 90. Willis suggested that its representative may have been “trying to protect Sampo”
17 and conceded that Willis should not have contacted Sampo about Hakkasan’s impending Claim
18 because Willis is supposed to “work for Hakkasan”.

19 91. Sampo has not paid any sums to Hakkasan to date, despite acknowledging
20 coverage.

21 92. Instead, Sampo, relying on the fraudulent Endorsement, continues to engage in a
22 pattern of delay and obfuscation in order to deprive Hakkasan of the benefits of its Policy during a
23 time of great crisis, unemployment, and financial distress for the company.

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FIRST CLAIM FOR RELIEF
Declaratory Relief
(Against Sampo)

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3 93. Hakkasan realleges and incorporates by reference the above paragraphs as though
4 fully stated herein.

5 94. Sampo has contended and/or suggested that Hakkasan's Claim, although covered
6 by the Policy, is subject to inapplicable sublimits and exclusions.

7 95. Sampo also contends that detailed information is required before it is obligated to
8 even provide a coverage position and begin reimbursing Hakkasan for its indisputably covered
9 losses well documented in the public record and supported by Hakkasan's submissions to date.

10 96. Hakkasan contends that Sampo must honor its representations and promises in the
11 Policy and has no legal right to refuse to make payments related to the Claim and that Sampo may
12 not avoid coverage.

13 97. Hakkasan is informed and believes, and based thereon alleges, that Sampo disputes
14 Hakkasan's contentions.

15 98. An actual, ripe, and justiciable controversy therefore exists between Hakkasan and
16 Sampo concerning the matters alleged herein.

17 99. Hakkasan seeks a judicial declaration confirming that Sampo's contentions are
18 wrong and that Hakkasan's contentions are correct and that Sampo must honor all duties under the
19 Policy, including its duty to pay up to its full \$350,000,000 per occurrence policy limit to
20 reimburse Hakkasan for the losses it has incurred in connection with its Special Time Element -
21 Cancellation Coverage Claim, and its duty to reimburse other covered losses under the Policy.

22 100. As a direct and proximate result of Sampo's acts, Hakkasan has been damaged as
23 of the date of this Complaint in an estimated amount in excess of \$50,000,0000. The actual
24 amount of damages has not yet been precisely ascertained, but includes the fees and expenses that
25 Hakkasan has incurred and will incur in connection with its Claim, and other damages and special
26 damages (including but not limited to attorneys' fees incurred in connection with pursuit of this
27 claim) not yet known or determined, plus interest. Hakkasan will seek leave to amend this
28 Complaint when the precise amount of its damages is known.

1 110. The Policy, other than the fraudulent Endorsement, is a valid contract between
2 Sampo and Hakkasan and represents the sole expression of the contractual terms between Sampo
3 and Hakkasan.

4 111. Sampo breached this agreement by the actions referenced above, including but not
5 limited to failing to pay for Hakkasan's covered Claim.

6 112. Hakkasan has performed all applicable terms and conditions of the Policy, or
7 otherwise has been excused from such performance.

8 113. Implied in the Policy is a covenant that Sampo will act in good faith and deal fairly
9 with Hakkasan, that it would do nothing to interfere with its rights to receive the benefits due
10 under the Policy, and that it would give at least the same level of consideration to Hakkasan's
11 interests as it gives to its own interests.

12 114. Instead of complying with its express and implied duties under its Policy, Sampo
13 has, among other things, (a) refused to confirm coverage under the Policy; (b) refused to confirm it
14 will pay for any of the covered losses; (c) refused to confirm it will pay for the covered losses up
15 to \$350,000,000 per occurrence; and (d) attempted to amend the Policy limits directly applicable
16 to the Claim after notice of the Claim and eleven months after the Policy was issued. Hakkasan is
17 informed and believes, and based thereon alleges, that Sampo engaged in such conduct in order to
18 coerce Hakkasan into accepting something less than the full policy benefits to which it is
19 otherwise entitled.

20 115. As a direct and proximate result of Sampo's breach of its contract, Hakkasan has
21 been damaged as of the date of this Complaint in an amount in excess of \$50,000,000.

22 116. The actual amount of damages has not yet been precisely ascertained, but includes
23 in addition to its covered losses, the fees and expenses covered under the Policy that Hakkasan has
24 incurred and will incur in connection with its Claim, and other damages not yet known or
25 determined, plus interest. This also includes attorneys' fees and other special damages incurred as
26 a natural consequence of Sampo's non-payment of Hakkasan's Claim and other breaches.
27 Hakkasan will seek leave to amend this Complaint when the precise amount of its damages is
28 known.

1 **FOURTH CLAIM FOR RELIEF**

2 **Contractual Breach of the Implied Covenant of Good Faith and Fair Dealing**
3 **(Against Sompō)**

4 117. Hakkasan realleges and incorporates by reference the above and below paragraphs
5 as though fully stated herein.

6 118. The Policy, other than the fraudulent Endorsement, is a valid contract between
7 Sompō and Hakkasan and represents the sole expression of the contractual terms between Sompō
8 and Hakkasan.

9 119. Under Nevada law, every contract imposes upon the contracting parties the duty of
10 good faith and fair dealing, which requires that one party refrain from conduct that would prevent
11 the other party from achieving its benefit of the bargain.

12 120. In breach of the implied covenant of good faith and fair dealing, Sompō committed
13 the acts alleged above for the purpose of consciously withholding from Hakkasan the rights and
14 benefits to which it is entitled under the Policy and without consideration of the interests of
15 Hakkasan at least to the same extent as it considered its own interests. In doing so, Sompō
16 breached the spirit of the contract between it and Hakkasan.

17 121. Sompō has contractually breached the implied covenant of good faith and fair
18 dealing by, among other things, (a) refusing to confirm coverage under the Policy; (b) refusing to
19 confirm it will pay for any of the covered losses; (c) refusing to confirm it will pay for the covered
20 losses up to \$350,000,000 per occurrence; and (d) attempting to amend the Policy limits directly
21 applicable to the Claim after notice of the Claim and eleven months after the Policy was issued.

22 122. As a direct and proximate result of Sompō's actions, Hakkasan has been damaged
23 as of the date of this Complaint in an amount in excess of \$50,000,000.

24 123. The actual amount of damages has not yet been precisely ascertained, but includes
25 in addition to its covered losses, the fees and expenses covered under the Policy that Hakkasan has
26 incurred and will incur in connection with its Claim and other damages not yet known or
27 determined, plus interest. This also includes attorneys' fees and other special damages incurred as
28 a natural consequence of Sompō's non-payment of Hakkasan's Claim and other breaches.

1 Hakkasan will seek leave to amend this Complaint when the precise amount of its damages is
2 known.

3 **FIFTH CLAIM FOR RELIEF**
4 **Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing**
5 **(Against Sampo)**

6 124. Hakkasan realleges and incorporates by reference the above and below paragraphs
7 as though fully stated herein.

8 125. The Policy, other than the fraudulent Endorsement, is a valid contract between
9 Sampo and Hakkasan and represents the sole expression of the contractual terms between Sampo
10 and Hakkasan.

11 126. Under Nevada law, every contract imposes upon the contracting parties the duty of
12 good faith and fair dealing, which requires that one party refrain from conduct that would prevent
13 the other party from achieving its benefit of the bargain.

14 127. Under Nevada law, the relationship of an insured to an insurer is one of special
15 confidence, and thus an insurer assumes the duty to negotiate with its insureds in good faith and to
16 deal with them fairly. In breach of the implied covenant of good faith and fair dealing, Sampo
17 committed the acts alleged above for the purpose of consciously withholding from Hakkasan the
18 rights and benefits to which it is entitled under the Policy and without consideration of the
19 interests of Hakkasan at least to the same extent as it considered its own interests.

20 128. In doing so, Sampo has acted unreasonably, in breach of its duties to its insured,
21 and with knowledge that there is no reasonable basis for its conduct.

22 129. Sampo's acts are inconsistent with the reasonable expectations of its insured and
23 are contrary to established claims practices and legal requirements and constitute bad faith.
24 Hakkasan is entitled to recover all attorneys' fees that it reasonably has incurred, and is incurring,
25 in its effort to obtain the Policy benefits that Sampo has withheld in bad faith, plus interest. The
26 amount of these attorneys' fees and expenses and other special damages, which are a natural and
27 proximate consequence of Sampo's injurious conduct, currently is unknown, and is continuing.
28 Hakkasan will seek leave to amend this Complaint to allege the precise amount of these fees and
costs when that amount is known.

1 137. Sompo's and Willis's actions have damaged Hakkasan as a result, by, among other
2 things, providing Sompo with an illegitimate justification for its wrongful refusal to pay
3 Hakkasan's Claim up to the full \$350,000,000 per occurrence limits, by improperly withholding
4 payment under the Policy, and by requiring Hakkasan to initiate this lawsuit to obtain relief.

5 138. Sompo's and Willis's conduct is despicable, was undertaken with a conscious
6 disregard of the rights of Hakkasan, and constitutes oppression, fraud, and/or malice within the
7 meaning of NRS 42.005. Specifically, Sompo and Willis, by acting as alleged above, consciously
8 and outrageously disregarded the rights of Hakkasan during a time of crisis where Hakkasan
9 sustained substantial financial losses. Hakkasan is therefore entitled to recover punitive damages
10 from Sompo and Willis in an amount sufficient to punish and to make an example of Sompo and
11 Willis in order to deter similar conduct.

12 **SEVENTH CLAIM FOR RELIEF**
13 **Constructive Fraud**
14 **(Against Sompo and Willis)**

15 139. Hakkasan realleges and incorporates by reference the above and below paragraphs
16 as though fully stated herein.

17 140. Under Nevada law, the relationship of an insured to an insurer is one of special
18 confidence, and thus Sompo had a special relationship with Hakkasan, its insured.

19 141. Under Nevada law, an insurance broker owes a duty to its client to perform with
20 reasonable care, diligence, and judgment.

21 142. Brokers also owe a special duty of reasonable care in communicating an insurance
22 policy's terms or extent of coverage.

23 143. Sompo purported to issue the back-dated Endorsement to severely restrict the
24 applicable limits of the Claim after it was already on notice of the Claim and without the consent
25 of its insured.

26 144. Willis breached its duty to Hakkasan when it misrepresented the terms of the Policy
27 in an attempt to induce Hakkasan to settle the Claim for less than it was otherwise entitled under
28 the Policy.

1 145. Willis and Sampo breached their duties and obligations to Hakkasan when Sampo
2 attempted to issue and Willis attempted to accept the Endorsement in a manner knowingly
3 calculated to deceive and mislead Hakkasan.

4 146. Sampo and Willis each had pecuniary interests in misleading Hakkasan into
5 thinking the Endorsement validly limited Hakkasan's coverage under the Policy.

6 147. Sampo and Willis misrepresented the Endorsement as a duly-issued part of the
7 original Policy in an attempt to induce Hakkasan to accept Sampo's fraudulent representation and
8 a settlement for the Claim for less than it was otherwise entitled under the Policy.

9 148. Sampo's and Willis's actions caused damage to Hakkasan by, among other things,
10 providing Sampo with an illegitimate justification for its wrongful refusal to pay the Claim, by
11 improperly withholding payment under the Policy, and by requiring Hakkasan to initiate this
12 lawsuit to obtain relief.

13 149. Hakkasan is entitled to recover all attorneys' fees that it reasonably has incurred,
14 and is incurring, in its effort to obtain the Policy benefits that Sampo has fraudulently withheld,
15 plus interest. The amount of these attorneys' fees and expenses and other special damages, which
16 are a natural and proximate consequence of Willis's and Sampo's fraudulent and injurious
17 conduct, currently is unknown, and is continuing. Hakkasan will seek leave to amend this
18 Complaint to allege the precise amount of these fees and costs when that amount is known.

19 150. Sampo's and Willis's conduct is despicable, was undertaken with a conscious
20 disregard of the rights of Hakkasan, and constitutes oppression, fraud, and/or malice within the
21 meaning of NRS 42.005. Specifically, Sampo and Willis, by acting as alleged above, consciously
22 and outrageously disregarded the rights of Hakkasan during a time of crisis where Hakkasan
23 sustained substantial financial losses. Hakkasan is therefore entitled to recover punitive damages
24 from Sampo and Willis in an amount sufficient to punish and to make an example of Sampo and
25 Willis in order to deter similar conduct.

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1 **EIGHTH CLAIM FOR RELIEF**

2 **Negligence**
3 **(Against Willis)**

4 151. Hakkasan realleges and incorporates by reference the above and below paragraphs
5 as though fully stated herein.

6 152. Under Nevada law, an insurance broker owes a duty to its client to perform with
7 reasonable care, diligence, and judgment.

8 153. Brokers also owe a special duty of reasonable care in communicating an insurance
9 policy's terms or extent of coverage.

10 154. Willis breached its duty to Hakkasan by, among other things, (a) misrepresenting
11 the terms of coverage that would be afforded under the Policy in its marketing materials; (b)
12 misrepresenting the coverage available under the Policy; (c) having inappropriate communications
13 with Sompo after knowing about Hakkasan's losses and the Claim; (d) facilitating the creation and
14 receipt of the invalid Endorsement; and (e) otherwise negligently handling the procurement and
15 issuance of the Policy and the claims process.

16 155. Willis's actions caused damage to Hakkasan by, among other things, providing
17 Sompo with an illegitimate justification for its wrongful refusal to pay Hakkasan's Claim and by
18 requiring Hakkasan to initiate this lawsuit to obtain relief.

19 156. Hakkasan is entitled to recover all attorneys' fees that it reasonably has incurred,
20 and is incurring, in its effort to obtain the Policy benefits that Sompo has fraudulently withheld,
21 plus interest. The amount of these attorneys' fees and expenses and other special damages, which
22 are a natural and proximate consequence of Willis's negligent conduct, currently is unknown, and
23 is continuing. Hakkasan will seek leave to amend this Complaint to allege the precise amount of
24 these fees and costs when that amount is known.

25 **NINTH CLAIM FOR RELIEF**

26 **Intentional Interference With Contractual Relations**
27 **(Against Willis)**

28 157. Hakkasan realleges and incorporates by reference the above and below paragraphs
as though fully stated herein.

1 158. The Policy, other than the fraudulent Endorsement, is a valid contract between
2 Sampo and Hakkasan and represents the sole expression of the contractual terms between Sampo
3 and Hakkasan.

4 159. Willis was aware of the contract between Sampo and Hakkasan.

5 160. Willis intentionally interfered with the contractual relationship between Sampo and
6 Hakkasan by inducing Sampo to breach its agreement with Hakkasan and by facilitating that
7 breach.

8 161. Sampo breached this agreement by the actions referenced above, including but not
9 limited to, issuing the fraudulent Endorsement and refusing to cover the Claim.

10 162. Willis's actions caused damage to Hakkasan by, among other things, providing
11 Sampo with an illegitimate justification for its wrongful refusal to pay the Claim and by requiring
12 Hakkasan to initiate this lawsuit to obtain relief.

13 163. Hakkasan is entitled to recover all attorneys' fees that it reasonably has incurred,
14 and is incurring, in its effort to obtain the Policy benefits that Sampo has fraudulently withheld,
15 plus interest. The amount of these attorneys' fees and expenses and other special damages, which
16 are a natural and proximate consequence of Willis's tortious conduct, currently is unknown, and is
17 continuing. Hakkasan will seek leave to amend this Complaint to allege the precise amount of
18 these fees and costs when that amount is known.

19 164. Willis's conduct is despicable, was undertaken with a conscious disregard of the
20 rights of Hakkasan, and constitutes oppression, fraud, and/or malice within the meaning of NRS
21 42.005. Specifically, Willis, by acting as alleged above, consciously and outrageously disregarded
22 the rights of Hakkasan during a time of crisis where Hakkasan sustained substantial financial
23 losses. Hakkasan is therefore entitled to recover punitive damages from Willis in an amount
24 sufficient to punish and to make an example of Willis in order to deter similar conduct.

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1 WHEREFORE, Hakkasan prays for judgment as follows:

2 **ON THE FIRST CLAIM FOR RELIEF**

- 3 1. For a declaration in accord with Hakkasan's contentions stated above;
- 4 2. For reasonable attorneys' fees and expenses incurred in obtaining the benefits due
- 5 under the policy;

6 **ON THE SECOND CLAIM FOR RELIEF**

- 7 3. For damages in excess of \$15,000, plus interest, according to proof at the time of
- 8 trial;

9 **ON THE THIRD CLAIM FOR RELIEF**

- 10 4. For damages in excess of excess of \$15,000, plus interest, according to proof at the
- 11 time of trial;
- 12 5. For reasonable attorneys' fees and expenses incurred in obtaining the benefits due
- 13 under the policy;

14 **ON THE FOURTH CLAIM FOR RELIEF**

- 15 6. For damages in excess of \$15,000, plus interest, according to proof at the time of
- 16 trial;
- 17 7. For reasonable attorneys' fees and expenses incurred in obtaining the benefits due
- 18 under the policy;

19 **ON THE FIFTH CLAIM FOR RELIEF**

- 20 8. For damages in excess of excess of \$15,000, plus interest, according to proof at the
- 21 time of trial;
- 22 9. For reasonable attorneys' fees and expenses incurred in obtaining the benefits due
- 23 under the policy;

- 24 10. For punitive damages in an amount to be determined at the time of trial;

25 **ON THE SIXTH CLAIM FOR RELIEF**

- 26 11. For damages in excess of \$15,000, plus interest, according to proof at the time of
- 27 trial;

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1 12. For reasonable attorneys' fees and expenses incurred in obtaining the benefits due
2 under the policy;

3 13. For punitive damages in an amount to be determined at the time of trial;

4 **ON THE SEVENTH CLAIM FOR RELIEF**

5 14. For damages in excess of \$15,000, plus interest, according to proof at the time of
6 trial;

7 15. For reasonable attorneys' fees and expenses incurred in obtaining the benefits due
8 under the policy;

9 16. For punitive damages in an amount to be determined at the time of trial;

10 **ON THE EIGHTH CLAIM FOR RELIEF**

11 17. For damages in excess of \$15,000, plus interest, according to proof at the time of
12 trial;

13 18. For reasonable attorneys' fees and expenses incurred as a proximate cause of
14 negligent conduct;

15 **ON THE NINTH CLAIM FOR RELIEF**

16 19. For damages in excess of \$15,000, plus interest, according to proof at the time of
17 trial;

18 20. For reasonable attorneys' fees and expenses incurred in obtaining the benefits due
19 under the policy;

20 21. For punitive damages in an amount to be determined at the time of trial;

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1 ON ALL CLAIMS FOR RELIEF

- 2 22. For costs of suit incurred herein;
3 23. For interest as allowed by law; and
4 24. For such other further, and/or different relief as may be just and appropriate.
5

6 Dated: June 5, 2020

7 Respectfully submitted,

8 SANTORO WHITMIRE

9 By /s/ James E. Whitmire

10 James E. Whitmire
11 jwhitmire@santoronevada.com
12 SANTORO WHITMIRE
13 10100 W. Charleston Blvd. #250
14 Las Vegas, Nevada 89135
15 Telephone: (702) 948-8771
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17 QUINN EMANUEL URQUHART &
18 SULLIVAN, LLP

19 Danielle L. Gilmore (*pro hac vice* application
20 pending)
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Demand for jury trial

Hakkasan hereby demands trial by jury.

DATED: June 5, 2020

Respectfully submitted,

SANTORO WHITMIRE

/s/ James E. Whitmire
jwhitmire@santoronevada.com
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EXHIBIT 1

EXHIBIT 1

SURPLUS LINES NOTICE

NEVADA

THIS INSURANCE CONTRACT IS ISSUED PURSUANT TO THE NEVADA INSURANCE LAWS BY AN INSURER NEITHER LICENSED BY NOR UNDER THE SUPERVISION OF THE DIVISION OF INSURANCE OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA. IF THE INSURER IS FOUND INSOLVENT, A CLAIM UNDER THIS CONTRACT IS NOT COVERED BY THE NEVADA INSURANCE GUARANTY ASSOCIATION ACT.



**SOMPO
INTERNATIONAL**

COMMON POLICY DECLARATIONS


Policy Number
ARL30001017500

Renewal Of: Number
New

Endurance American Specialty Insurance Company
Home Office: 1221 Avenue of the Americas New York, NY 10020
Phone: (212) 209-6500

Item 1. Named Insured and Mailing Address		Agent Name and Address	
Hakkasan USA, Inc. 6385 S Rainbow Boulevard Suite 800 Las Vegas, NV 89119		Willis of Arizona 16220 N. Scottsdale Rd Suite 600 Scottsdale, AZ 85254	
Item 2. Policy Period	From: April 01, 2019	To: April 01, 2020	
12:01 A.M., Standard Time at the location of the property covered.			
Item 3. Business Description: Form of Business:			
Item 4. In return for the payment of the premium, and subject to all the terms of this policy, we agreed with you to provide the insurance as stated in this policy.			
This policy consists of the following coverage parts for which a premium is indicated. Where no premium is shown, there is no coverage. This premium may be subject to adjustment.			
Coverage Part(s)		Premium	
Commercial Property Coverage Part		\$	
TRIA Coverage		\$	
Total Policy Premium		\$	
Item 5. See Schedule of Forms and endorsements.			
Additional Form(s) and Endorsement(s) made a part of this policy at time of issue: See ECP 0101			

Countersigned: May 13, 2019

By: 
Authorized Representative

Date: May 13, 2019

Issuing Office: 1221 Avenue of the Americas
New York, NY 10020

THIS COMMON POLICY DECLARATION AND THE SUPPLEMENTAL DECLARATION(S), TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART(S) AND FORMS AND ENDORSEMENTS, IF ANY, COMPLETE THE ABOVE NUMBERED POLICY

NOTE - SEE ENCLOSED NOTICE FOR SURPLUS LINES NOTIFICATION

FORMS AND ENDORSEMENT SCHEDULE

It is agreed the following forms and endorsements are attached to and are a part of this policy:

#	FORM NUMBER	FORM NAME
1.	SN 9027 0914 NV	SN - Nevada
2.	ECP 0006 0617	Common Property Declarations
3.	ECP 1321 0316	Minimum Earned Premium Clause
4.	ECP 1302 0214	Notice of Loss
5.	ECP 1307 0316	Service Of Suit Endorsement
6.	IL 1214 0115	Disclosure Pursuant To The Terrorism Risk Insurance Act
7.	IL 1218 0617	Certified Terrorism Loss Coverage; Non-Certified Acts and NBCR Exclusion
8.	ECP 1001 0606	Specialty Clause Endorsement
9.	PN 0001 0712	Office of Foreign Assets Control ("OFAC")
10.	IL 1008 0114	Signature Page

COMPREHENSIVE ALL RISK FORM

SECTION A - DECLARATIONS

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations of this policy. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have a special meaning. Refer to the Definitions section of this policy.

I. NAMED INSURED AND MAILING ADDRESS:

**Hakkasan USA, Inc.
6385 S Rainbow Boulevard
Suite 800
Las Vegas, NV 89119**

as now or may hereafter be constituted. Unless otherwise provided herein, loss, if any, shall be adjusted with **Hakkasan USA, Inc.**, and payable as directed by the Insured. The receipt of the payee(s) so designated shall constitute a release in full of all liability with respect to such loss.

IN ADDITION TO THE NAMED INSURED SHOWN ABOVE, WE ALSO INSURE:

- A. Any subsidiary organization(s) of the Insured, including their subsidiaries;
- B. Additional Named Insureds; and
- C. Any other organization coming under the Insured's control when the Insured assumes its actual management.

If the Named Insured under this form consists of more than one person or firm, we will not pay more than what the amount of loss would have been if we had insured a single person or firm.

II. INSURING AGREEMENT

This policy insures against risks of direct physical loss or damage to covered property while at an Insured Location or on land within one thousand (1,000) feet thereof, unless otherwise excluded or subject to limitations elsewhere in this policy, and provided such physical loss or damage occurs during the term of this policy. Any other type of insurance coverage shall be in writing and/or contained in a specific endorsement referenced in the Declarations of this policy.

III. PREMIUM AND TERM OF POLICY

The first Named Insured shown herein, in the Declarations, is responsible for the payment of all premiums and will be the payee for any return premiums we pay.

In consideration of \$ _____ premium charged, due for the initial policy term, this policy attaches and covers for a period of time as indicated from 4/1/2019 to 4/1/2020, beginning and ending at 12:01 a.m. Standard Time, at the location(s) of the covered property.

IV. COVERAGE TERRITORY

This policy covers loss or damage occurring at any Insured Location within the United States of America (including its territories and possessions), Canada, and Puerto Rico.

V. INSURED LOCATION

The coverages under this policy apply to an Insured Location unless otherwise provided.

An Insured Location is a location:

- A. Listed on a Schedule of Locations on file with the Company.
- B. Covered under the terms and conditions of the Miscellaneous Unnamed Locations Coverage, the Newly Acquired Property Coverage, or the Errors and Omissions provisions.

A location is as specified in the Schedule of Locations; or if not specified in the Schedule of Locations, a location is a site or area which is owned, leased or occupied by the Insured and is bounded on all sides by areas which are not owned, leased or occupied by the Insured.

VI. OCCURRENCE

Occurrence means any one accident, loss, disaster, casualty, incident or series of accidents, losses, disasters, casualties or incidents, including all resultant or concomitant insured losses, not otherwise excluded by this Policy, arises out of a single event or originating cause.

The occurrence must occur during the policy period.

When the term applies to loss or losses from the perils of windstorm or hail, named storm, riot, strike or civil commotion, vandalism and malicious mischief, earthquake or flood, to the extent any such peril(s) are covered, all losses arising from such peril(s) occurring during a continuous period of 72 hours shall be deemed to be a single occurrence. You may elect the moment at which the 72 hour period shall be deemed to have commenced, which shall not be earlier than the time when the first loss occurs to the covered property, but no two such 72 hour periods shall overlap.

If the occurrence commences during this policy period, then we shall treat the entire occurrence as occurring during this policy period.

Policy Issuance Date: May 6, 2019
Policy Issuance Office: 1221 Avenue of the Americas

Endurance American Specialty Insurance Company
PAR 0201 1117

VII. LIMITS OF LIABILITY

Our maximum limit of liability in a single occurrence regardless of the number of locations or coverages involved, including any insured Time Element loss, will not exceed the policy limit of **\$350,000,000**, subject to the following provisions.

- A. This policy may contain sublimits applicable to specific locations, specific coverages or specific causes of loss. Such sublimits shall be the total payable arising out of one occurrence (or an "annual aggregate" of certain occurrences where so specified), and neither the policy limit nor any sublimit shall be increased by the application of one or more sublimit.
- B. The sublimits of liability stated below or elsewhere in this policy are parts of, and not in addition to, the policy limit of liability.
- C. Limits of liability in an occurrence apply to the total loss or damage at all locations and for all coverages involved, including any insured Time Element loss, subject to the following provisions:
 - 1. When a limit of liability applies in the aggregate during any policy year, the Company's maximum amount payable will not exceed such limit of liability during any policy year regardless of the number of locations, coverages or occurrences involved.
 - 2. When a limit of liability applies to a location or other specified property, such limit of liability will be the maximum amount payable for all loss or damage at all locations arising from physical loss or damage at such location or to such other specified property.

Abbreviations may be used in this policy to designate coverages, in which case, "PD" will mean coverage provided by the Property Damage Coverage Section, and "TE" will mean coverage provided by any Time Element Coverage within the Time Element Coverage Section which is not more specifically identified.

SUBLIMITS OF LIABILITY:

A. EARTHQUAKE ANNUAL AGGREGATE SUBLIMIT

Liability for all losses per occurrence and in the aggregate, caused by or resulting from earthquake in any one policy year as insured against, shall not exceed **\$10,000,000** at all Scheduled Locations except as follows:

- 1. **\$5,000,000** per occurrence and "annual aggregate" at location(s) in Alaska, California, Hawaii and Puerto Rico combined;
- 2. Newly Acquired, Miscellaneous Unnamed, and Dependent Property Locations are excluded.

B. FLOOD ANNUAL AGGREGATE SUBLIMIT

Liability for all losses per occurrence and in the aggregate, caused by or resulting from flood in any one policy year as insured against, shall not exceed **\$10,000,000** at all Scheduled Locations except as follows:

1. **\$5,000,000** per occurrence and "annual aggregate" at scheduled locations wholly or partially situated within "Special Flood Hazard Areas" (SFHA), areas of 100-year flooding, as defined by the Federal Emergency Management Agency (FEMA), or in areas outside the United States which are equivalent, at the time of loss;
2. Newly Acquired, Miscellaneous Unnamed, and Dependent Property Locations are excluded.

C. TRANSIT SUBLIMIT

Liability shall not exceed **\$1,500,000** on any loss arising out of one occurrence as insured against by the Transit Additional Coverage provided by this policy.

D. EQUIPMENT BREAKDOWN SUBLIMIT(S)

Liability shall not exceed **\$100,000,000** on any one loss arising out of any one "accident" as insured against by the Equipment Breakdown Additional Coverage, subject to the sublimit(s) for any one "accident" listed below:

<u>Equipment Breakdown Coverage</u>	<u>Sublimit</u>
Ordinance or Law - Demolition & Increased Cost of Construction	\$ 10,000,000
Dependent Locations	\$ 5,000,000
"Electronic Data" - Property Damage	\$ 10,000,000
"Electronic Data" - Time Element	\$ 10,000,000
Expediting Expenses	\$ 5,000,000
Extra Expense	\$ 10,000,000
Gross Earnings or Gross Profits	\$ Included
"Hazardous Substances"	\$ 1,000,000
Service Interruption	\$ 10,000,000
"Perishable Goods"	\$ 1,000,000

E. OFF-PREMISES SERVICES INTERRUPTION - PROPERTY DAMAGE AND, IF APPLICABLE, TIME ELEMENT SUBLIMIT

\$10,000,000 for loss or damage arising out of one occurrence caused by or resulting from off-premises service interruption; including overhead transmission lines.

F. **OTHER SUBLIMITS FOR LOSS ARISING OUT OF ONE OCCURRENCE:**

<u>Coverage</u>		<u>Sublimit</u>
Accounts Receivable	\$	10,000,000
Brands and Labels	\$	5,000,000
Civil Authority	\$	5,000,000
Collapse		Included
Consequential Reduction in Value		Included
Debris Removal Expense	\$	25,000,000
Decontamination Costs	\$	2,500,000
Defense Costs	\$	Included
Deferred Payments	\$	5,000,000
Dependent Locations	\$	5,000,000
Downzoning Coverage	\$	5,000,000
Electronic Data – Property Damage/ Time Element	\$	10,000,000
Errors and Omissions	\$	10,000,000
Exhibition, Exposition, Fair or Trade Show	\$	500,000
Expediting Expenses	\$	5,000,000
Extra Expense	\$	10,000,000
Fine Arts	\$	1,500,000 with a max of 250,000 per item
Fire Department Services Charges	\$	Included
Green aka Efficient Improvements Coverage		Included
Gross Earnings	\$	Included
Impounded Water	\$	5,000,000
Ingress/Egress	\$	5,000,000
Leasehold Interest	\$	Included
Limited Coverage for Fungus, Wet Rot or Dry Rot – Annual Aggregate	\$	50,000
Lost Key Consequential Damage (see coverage clause)	\$	2,500,000
Miscellaneous Unnamed Locations	\$	5,000,000
Newly Acquired Property	\$	10,000,000
Ordinance or Law – Demolition and Increased Cost of Construction	\$	10,000,000
Ordinance or Law – Undamaged Parts of a Building	\$	Included
Pollutant Cleanup and Removal – Annual Aggregate	\$	1,000,000

Policy Issuance Date:
Policy Issuance Office:

May 6, 2019
1221 Avenue of the Americas

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Professional Fees	\$	500,000
Property in the Course of Construction	\$	10,000,000
Protection and Preservation of Property	\$	Included
Recharge of Fire Extinguishing Equipment	\$	100,000
Rental Value	\$	Included
Research and Development	\$	1,000,000
Sales Representative Samples	\$	50,000
Spoilage	\$	1,000,000
Temporary Removal of Property	\$	500,000
Tenant Move Back Costs	\$	2,500,000
Trees, Shrubs, and Plants	\$	100,000
Valuable Papers and Records	\$	10,000,000

The above sublimits may be amended as necessary. Other Limits of Liability may be added. All of the above limits apply per occurrence unless otherwise indicated.

G. TIME LIMITS OF LIABILITY:

In addition to any sublimit shown above or other "limit" shown elsewhere in this policy, the following time limits apply for the following coverages:

<u>Coverage</u>	<u>Time Limit</u>
Civil Authority	30 Days
Extended Period Of Indemnity	365 Days
Impounded Water	30 Days
Ingress/Egress	30 Days
Newly Acquired Property	90 Days
Ordinary Payroll	90 Days

VIII. VALUE REPORTING PROVISIONS

You will provide us 100% values by location. The statement of values will show values as of the inception date of this policy and are due on or before the inception date of this policy.

IX. DEDUCTIBLES

A. APPLICATION OF DEDUCTIBLES

In each case of loss covered by this policy, we shall not be liable unless the Insured sustains a loss, including any insured Time Element loss, in a single occurrence in excess of the applicable deductible specified below, and then only for our share of such

Policy Issuance Date: May 6, 2019

Policy Issuance Office: 1221 Avenue of the Americas

Endurance American Specialty Insurance Company

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excess.

1. Stated dollar deductibles or time exclusion deductibles which are related to a specific type of coverage shall be applied separately with respect to such coverages. If two or more separate deductible amounts apply to the same specific type of coverage, the total to be deducted shall be the largest applicable deductible amount.
2. Deductibles which are not designated as applying to a specific type of coverage are combined deductibles and shall be applied to the total loss from all applicable coverages.
3. When this policy insures more than one location, the deductible will apply against the total loss covered in this policy in an occurrence except that a deductible that applies on a per location basis, if specified, will apply separately to each location where the physical damage occurred regardless of the number of locations involved in the occurrence.
4. Unless stated otherwise, if two or more deductibles apply to an occurrence, the total to be deducted will not exceed the largest deductible applicable. If two or more deductibles apply on a per location basis in an occurrence the largest deductible applying to each location will be applied separately to each such location.
5. Equipment Breakdown Percentage of Loss Deductibles: If a deductible is expressed as a percentage of loss, we will not be liable for the indicated percentage of the gross amount of loss, damage or expense (prior to any applicable deductible or coinsurance) insured under the applicable coverage. If the dollar amount of such percentage is less than the indicated minimum deductible, the minimum deductible will be the applicable deductible.

B. POLICY DEDUCTIBLE

A **\$25,000** PD deductible and 24 Hours TE will be applicable to all coverages on a per occurrence basis, except as follows.

Abbreviations may be used in this policy to designate coverages, in which case, "PD" will mean coverage provided by Property Damage Coverage Part, and "TE" will mean coverage provided by any Time Element Coverage Part which is not more specifically identified.

EXCEPTIONS TO POLICY DEDUCTIBLE:

1. EARTHQUAKE DEDUCTIBLE(S)

In the event of Property Damage and/or Time Element loss caused by or resulting from earthquake, the following deductible provisions will apply to each occurrence as insured against in this policy.

\$100,000 for each occurrence as insured against at all Insured Locations, except as follows:

- a. As respects Insured Locations in the States of Alaska, California, Hawaii and Puerto Rico combined:

The greater of **5%** of the PD and TE values where the loss occurs, or **\$100,000** for each occurrence for covered locations.

The stated percentage deductible(s) above will be calculated for Property Damage and Time Element losses as shown in subparagraphs a. and b. below:

- a. For Property Damage loss, the percentage shown above will be multiplied by the one hundred percent (100%) value of the property insured, applied separately to each location where physical damage occurred:

- (1) Each building or structure;
- (2) The contents of each building or structure; and
- (3) Personal property in each yard.

In applying this deductible, value shall be determined on the same basis as is used to determine the amount of loss. Upon request, the Insured shall submit properly substantiated values as of the date of loss.

- b. For Time Element loss, the applicable percentage shown above will be multiplied by the Time Element value, meaning Gross Earnings and continuing expenses, that would have been earned in the twelve (12) month period immediately following the date of the earthquake loss by use of the facilities at the location(s) where the physical damage occurred and all other locations where Time Element loss ensues. The deductible percentage shall apply to each location.

2. FLOOD DEDUCTIBLE(S)

In the event of Property Damage and/or Time Element loss caused by or resulting from flood, the following deductible provisions will apply to each occurrence as insured against in this policy.

\$50,000 for each occurrence as insured against at all Insured Locations, except as follows:

- a. As respects Insured Locations wholly or partially situated within "Special Flood Hazard Areas" (SFHA), areas of 100-year flooding, as defined by the Federal Emergency Management Agency (FEMA):

\$500,000 for each occurrence for covered locations.

These deductibles also apply to areas outside the United States which are equivalent to 2.a. and 2.b. above.

The stated percentage deductible(s) above will be calculated for Property Damage and Time Element losses as shown below:

- a. For Property Damage loss, the percentage shown above will be multiplied by the one hundred percent (100%) value of the property insured, applied separately to each location where physical damage occurred:

- (1) Each building or structure;
- (2) The contents of each building or structure; and
- (3) Personal property in each yard.

In applying this deductible, value shall be determined on the same basis as is used to determine the amount of loss. Upon request, the Insured shall submit properly substantiated values as of the date of loss.

- b. For Time Element loss, the applicable percentage shown above will be multiplied by the Time Element value, meaning Gross Earnings and continuing expenses, that would have been earned in the twelve (12) month period immediately following the date of the flood loss by use of the facilities at the location(s) where the physical damage occurred and all other locations where Time Element loss ensues. The deductible percentage shall apply to each location.

3. **NAMED WINDSTORM DEDUCTIBLE(S)**

In the event of Property Damage and/or Time Element loss caused by or resulting from a Named Windstorm, the sum to be deducted, each occurrence, shall be **\$25,000**, except as follows:

- a. Tier I Wind Zones - as respects Insured Locations in a Tier I Wind Zone per **Appendix C**:

The greater of **5%** of the PD and TE values where the loss occurs, or **\$100,000** for each occurrence for Insured Locations.

- b. Tier II Wind Zones - as respects Insured Locations in a Tier II Wind Zone per **Appendix C**:

The greater of **2%** of the PD and TE values where the loss occurs, or **\$100,000** for each occurrence for Insured Locations.

The stated percentage deductible(s) above will be calculated for Property Damage and Time Element losses as shown below:

- a. For Property Damage, the percentage shown above will be multiplied by the one hundred percent (100%) value of the property insured, applied separately to each location where physical damage occurred:

- (1) Each building or structure;
- (2) The contents of each building or structure; and
- (3) Personal property in each yard.

In applying this deductible, value shall be determined on the same basis as is used to determine the amount of loss. Upon request, the Insured shall submit properly substantiated values as of the date of loss.

- b. For Time Element loss, the applicable percentage shown above will be multiplied by the Time Element values, meaning Gross Earnings and continuing expenses that would have been earned in the twelve (12) month period immediately following the date of the Named Windstorm loss by use of the facilities at the location(s) where the physical damage occurred and all other locations where Time Element loss ensues. The deductible percentage shall apply separately to each location.

The term Named Windstorm shall mean a storm or weather condition including substance driven by wind that has been identified by name by any meteorological authority such as the National Hurricane Center or U.S. National Weather Service.

4. TRANSIT DEDUCTIBLE(S)

\$25,000 for each occurrence as insured against by the Transit Additional Coverage provided by this policy.

5. EQUIPMENT BREAKDOWN DEDUCTIBLE(S)

The following deductible provisions apply to each "accident" as insured against by the Equipment Breakdown Additional Coverage at all locations.

EB - PD: \$25,000

EB - TE: 24 Hours

EB - PG: The greater of 5% of the "Perishable Goods" value where the loss occurs, subject to a minimum of \$25,000 for each "accident" for Insured Locations.

X. WAITING PERIOD

If a waiting period is indicated below for a coverage, we will not be liable for any loss or expense occurring during the specified number of hours or days following an occurrence. The number of hours or days immediately following the loss must exceed the stated waiting period below for coverage to apply. If the time period exceeds the stated waiting period below, then all terms and conditions including applicable deductibles would apply.

Coverage

Waiting Period

Dependent Locations

Twenty-four (24) Hours Waiting Period

Off Premises Service Interruption

Twenty-four (24) Hours Waiting Period

SECTION B - PROPERTY DAMAGE COVERAGE PART

I. COVERED PROPERTY

Except as excluded elsewhere in this policy, this policy insures the following property at an Insured Location or on land within 1,000 feet thereof, to the extent of the interest of the Insured in such property.

A. If this policy covers Real Property, it covers:

- 1.** All buildings and structures of every description at an Insured Location as described in the Declarations of this policy which are owned or used by the Insured, including new buildings and additions under construction at an

Policy Issuance Date:
Policy Issuance Office:

May 6, 2019
1221 Avenue of the Americas

Endurance American Specialty Insurance Company
PAR 0201 1117

Insured Location in which the Insured has an insurable interest;

2. The Insured's liability for contractors and subcontractors interest in buildings or structures covered by this policy while under construction, alteration, or repair, or when completed at an Insured Location or within 1,000 feet thereof, including:
 - a. All fixtures, equipment, machinery or apparatus, which will constitute a permanent part of such buildings or structures; and
 - b. Materials or supplies intended for use in the construction, alteration, or repair of such buildings or structures.

Such interest of contractors and subcontractors is limited to the property for which they have been hired to perform work and such interest will not extend to any Time Element Coverage provided in this policy.

B. If this policy covers Personal Property, it covers:

1. All personal property owned by the Insured and used in the Insured's business while at the Insured Location(s) described in the Declarations of this policy or within 1,000 feet thereof;
2. The Insured's interest in and liability for personal property of others while in the Insured's care, custody or control while at the Insured Location(s) described in the Declarations of this policy or within 1,000 feet thereof;
3. Personal property (other than motor vehicles) of officers and employees of the Insured;
4. The Insured's use interest as a tenant in improvements and betterments to buildings or structures. In the event of physical loss or damage, we agree to accept and consider the Insured as sole and unconditional owner of improvements and betterments, notwithstanding any contract or lease to the contrary;

5. "Mobile equipment" owned by the Insured, or owned by others if such non-owned equipment is in the Insured's care, custody or control. "Mobile equipment" does not include vehicles and other self-propelled motorized machines licensed for road use.

II. PROPERTY NOT COVERED

A. This policy does not insure against loss or damage to:

1. Contractors' and subcontractors' machinery, tools and equipment used in erection of covered property unless the total capital value of such property is directly and specifically charged to the job, or unless specifically endorsed hereon as being insured;
2. Currency, deeds, money, notes, securities, precious metal in bullion form;
3. Land, growing crops, timber;
4. Outdoor trees, lawns, plants, shrubs (other than as "stock"), except as provided under Trees, Shrubs, and Plants in the Additional Coverages section of this policy;
5. Animals, furs, jewelry, precious stones, dams, dikes, unless caused by a "specified peril";
6. Underground mines, mine shafts, caverns or any property contained therein;
7. Property while in transit, except as provided in the Additional Coverage section of this policy.
8. Docks, piers, wharves or other property located thereon when caused by action of water or ice or impact of watercraft;
9. Property sold by the Insured under conditional sale, trust agreement, installment or other deferred payment plan after delivery to customers, except as provided under Deferred Payments in the Additional Coverage section of this policy;
10. Offshore property, except that structures and their contents extending from land or shore, floating docks permanently moored to dock, river bank or shore are not to be considered as offshore.

In the Gulf of Mexico off Texas and Louisiana, offshore is to be seaward of the inland edge of the Lease Block of the Plane Coordinate System, as defined on United States Department of Land Management Leasing Maps.
11. Aircraft or watercraft and contents thereof, except when unfueled and manufactured by the Insured;

- 12.** Automobiles, motor trucks, tractors, trailers, and similar conveyances designed and used for over-the-road transportation of people or cargo;
- However, we do cover:
- a. "Mobile equipment" described under I. Covered Property, B.5. of this coverage part; and
 - b. Automobiles and vehicles that you manufacture, process, or warehouse. However, we do not cover automobiles or vehicles held for sale, lease, loan, or rent;
- 13.** Air supported structures and contents thereof;
- 14.**
- a. The Insured's product when loss is caused by errors in design, poor workmanship, or use of faulty materials, in the development, processing, testing or manufacturing of the Insured's product;
 - b. "Stock" or materials when loss is caused by manufacturing or processing operations which result in damage to such property while being processed, manufactured, tested or otherwise being worked upon;
 - c. Media for, or programming records pertaining to electronic and electromechanical data processing or electronically controlled equipment, including the data thereon when loss is caused by error or omission in machine programming or instructions to the machine;
- 15.** Water, except water which is normally contained within any type of tank, piping system or other processing equipment;
- 16.** "Electronic data", programs and software, except when they are "stock-in-process", finished goods manufactured by the Insured, "raw materials", supplies or other "merchandise" not manufactured by the Insured, or as otherwise provided under Electronic Data in the Additional Coverage section of this policy;
- 17.** Valuable papers and records, except as provided under Valuable Papers and Records in the Additional Coverage section of this policy;
- 18.** Overhead transmission and distribution lines, including wire, cables, poles, pylons, standards, towers, or other supporting structures which may be attendant to the transmission and/or distribution of electrical power, telephone communications, and/or internet transmissions, except as provided under Off Premises Service Interruption in the Additional Coverage section of this policy. This exclusion shall not apply to such property which is located on the insured's premises or within 1,000 feet thereof.

III. ADDITIONAL COVERAGES

- A. This policy includes the following Additional Coverages for physical loss or damage insured by this policy. These Additional Coverages may indicate an applicable limit of insurance. This limit may also be shown in the Declarations. If a different limit is indicated in the Declarations, that limit will apply instead of the limit shown below. However, if no limit is indicated in the coverage clause or Declarations for an Additional Coverage, coverage is provided up to the full limit for the applicable covered property.
- B. Unless otherwise indicated, the Additional Coverages provided below are subject to the applicable limit of liability; will not increase the policy limit of liability; and are subject to the policy provisions including applicable exclusions and deductibles, all as shown in this section and elsewhere in this policy.

1. Accounts Receivable

We will pay up for the actual loss sustained resulting from direct physical loss of or damage to the Insured's accounts receivable records, as respects the following:

- a. All sums due the Insured from customers, provided the Insured is unable to collect these sums as a result of direct physical loss or damage to accounts receivable records;
- b. Interest charges on any loan obtained by the Insured to offset impaired collections resulting from direct physical loss of or damage to accounts receivable records but only for such period of time reasonable and necessary for the Insured to resume normal collections;
- c. Necessary collection expense in excess of normal collection cost due to direct physical loss of or damage to accounts receivable records; and
- d. Other expenses, when reasonably incurred by the Insured in re-establishing accounts receivable records following direct physical loss of or damage to accounts receivable records.

The most we will pay is **\$10,000** or the amount stated in the Declarations, whichever is greater.

In the event of loss to accounts receivable records, the Insured will use all reasonable efforts, including legal action, if necessary, to effect collection of outstanding accounts receivable.

When there is proof that direct physical loss of accounts receivable records has occurred and the Insured cannot accurately establish the total amount of accounts receivable outstanding as of the date of loss, the amount payable shall be computed as follows:

- a. The monthly average of accounts receivable during the last available twelve (12) months; the reasonable and necessary collection expenses in excess of normal collection costs due to direct physical loss of or damage to accounts receivable records; and the reasonable and necessary expenses incurred in re-establishing accounts receivable records following direct physical loss or damage, shall be adjusted in accordance with the percentage increase or decrease in the twelve (12) months average of monthly gross revenues which may have occurred in the interim;
- b. The monthly amount of accounts receivable as established above shall be further adjusted in accordance with any demonstrable variance from the average for the particular month in which the loss occurred. Consideration will also be given to the normal fluctuations in the amount of accounts receivable within the fiscal month involved.

We shall deduct from the total amounts of account receivable, the amount of accounts evidenced by records not lost or damaged or otherwise established or collected by the Insured, and an amount to allow for probable bad debts which the Insured normally would have been unable to collect, and for the normal collection costs incurred due to accounts receivable.

The settlement of loss will be made within ninety (90) days from the date of physical loss or damage. All amounts recovered by the Insured on outstanding accounts receivable on the date of loss will belong and be paid to us up to the amount of loss paid by us. All recoveries in excess of the amount we have paid belong to the Insured.

The following exclusions apply in addition to the Exclusions section of this policy.

This coverage does not insure against shortage resulting from:

- a. Bookkeeping, accounting or billing errors or omissions; or
- b. Alteration, falsification, manipulation; or
- c. Concealment, destruction or disposal.

2. Brands And Labels

If branded or labeled property insured by this policy is physically damaged and we elect to take all or any part of that property, we will pay expenses you may incur to:

- a. Stamp "salvage" on the property or its containers; or
- b. Remove or obliterate the brands or labels,

if doing so will not damage the property. In either event, you must re-label such property or its containers to be in compliance with any applicable law.

The most we will pay for these costs is **\$10,000** or the amount stated in the Declarations, whichever is greater.

3. Collapse

We will pay for loss caused by direct physical loss resulting from collapse as described in below:

- a. Collapse of a building or structure, any part of a building or structure, or personal property inside a building or structure, if the collapse is caused by one or more of the following:
 - (1) Fire;
 - (2) Lightning;
 - (3) Explosion;
 - (4) Falling objects;
 - (5) Hidden decay not known to you prior to the collapse;
 - (6) Hidden insect or vermin damage not known to you prior to the collapse;
 - (7) Weight of people or personal property;
 - (8) Weight of rain that collects on a roof; or
 - (9) By use of defective material or methods in construction, remodeling, or renovation if the collapse occurs during the course of the construction, remodeling, or renovation.
- b. Collapse means an abrupt falling down or caving in of a building or any part of a building. Collapse does not include settling, cracking, shrinkage, bulging, or expansion.
- c. A building or part of a building that is still standing but in danger of collapse, or the structural integrity of which is otherwise impaired, is not considered to be in a state of collapse.

4. Consequential Reduction In Value

We will pay for the reduction in value of insured merchandise that is a part of pairs, sets, or components, directly resulting from physical loss or damage

insured by this policy to other insured parts of pairs, sets or components of such merchandise.

In case of loss or damage to any part of a pair or set, the Company will:

- a. Pay the cost of repairing or replacing any part to restore the pair or set to its value before the loss or damage;
- b. Repair or replace any part to restore the pair or set to its value before the loss or damage; or
- c. Pay the difference between the value of the pair or set before and after the loss or damage.

If settlement is based on a constructive total loss, the Insured will surrender the undamaged parts of such merchandise to us.

5. Debris Removal Expense

We will pay the necessary and reasonable expenses actually incurred by you to remove debris from an Insured Location that remains as a direct result of physical loss or damage insured by this policy.

This Additional Coverage does not cover the expense of removal of:

- a. Any foundation, other than damaged portions which must be removed for repair or rebuilding of any covered building or structure; or
- b. Any property or part thereof, the removal of which is required by the enforcement of any law, ordinance, regulation or rule regulating or restricting the construction, installation, repair, replacement, demolition, occupancy, operation or other use of such property; or
- c. "Pollutants" from land or water, nor for the cost to remove, restore or replace polluted land or water; or
- d. Contaminated uninsured property; or
- e. The "contaminant" in or on uninsured property, whether or not the "contamination" results from insured physical loss or damage.

Our liability for loss under this Debris Removal provision, arising out of one occurrence at each Insured Location, shall not exceed:

- a. 25% of the combined amount of direct physical damage and Time Element loss payable at the Insured Location where the damage occurs; or
- b. The amount stated in the Declarations, whichever is greater.

This Debris Removal provision shall not increase any amounts or limits of insurance provided by this policy.

No liability shall exist under this Debris Removal provision unless such expenses are reported to the Company within one hundred eighty (180) days of the date of direct physical loss or damage or the expiration of this policy, whichever shall be earlier.

6. Decontamination Costs

If covered property is contaminated as a direct result of physical loss or damage insured by this policy and there is in force at the time of the loss any law or ordinance regulating "contamination" due to the actual, not suspected presence of, "contaminant(s)", then this policy covers, as a direct result of enforcement of such law or ordinance, the increased cost of decontamination and/or removal of such contaminated covered property in a manner to satisfy such law or ordinance. This Additional Coverage applies only to that part of covered property so contaminated due to the actual, not suspected presence of, "contaminant(s)" as a direct result of insured physical loss or damage. This Additional Coverage does not apply to "fungus", wet rot or dry rot.

The most we will pay for these costs is \$50,000 or the amount stated in the Declarations, whichever is greater.

We are not liable for the costs required for removing contaminated uninsured property nor the "contaminant" therein or thereon, whether or not the "contamination" results from an insured event.

The coverage under this policy for Decontamination Costs does not apply to the Additional Coverage Equipment Breakdown Hazardous Substances coverage.

7. Defense Costs

We have the option to defend any suit against you alleging physical loss or damage as insured against to personal property of others in your care custody or control while on an Insured Location, to the extent of your liability therefore, even if such suit is groundless, false or fraudulent. We may without prejudice to our rights under the policy make such investigation, negotiation or settlement of any such claim or suit as we deem expedient.

8. Deferred Payments

This policy covers direct physical loss or damage caused by a "covered cause of loss" to personal property of the type insurable under this policy, if the personal property is sold by you under a conditional sale or trust agreement or any

installment or deferred payment plan, after such property has been delivered to the buyer. Coverage is limited to the unpaid balance for such property.

In the event of loss to property sold under deferred payment plans, you will use all reasonable efforts, including legal action, if necessary, to effect collection of outstanding amounts due or to regain possession of the property.

The most we will pay is **\$10,000** or the amount stated in the Declarations, whichever is greater.

There is no liability under this policy for loss:

- a. Pertaining to products recalled including, but not limited to, the costs to recall, test or to advertise such recall by the Insured;
- b. From theft or conversion by the buyer of the property after the buyer has taken possession of such property;
- c. To the extent the buyer continues payments;
- d. Not within the Territory of this policy.

9. Earthquake

We will pay for direct physical loss or damage caused by or resulting from earthquake, but this Additional Coverage applies only when an earthquake limit of insurance is shown in the Declarations section of this policy.

- a. Earthquake means loss or damage caused by earth movement resulting from natural faulting of land masses, including the sinking, rising, or shifting of earth.
- b. This Additional Coverage does not insure against loss or damage caused by any of the following regardless of any other cause or event that contributes concurrently or in any sequence to the loss:
 - (1) Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, spray from any of these all whether or not driven by wind (including storm surge), water that backs up or overflows or is otherwise discharged from a sewer, drain, sump pump or related equipment;
 - (2) Mine subsidence (meaning subsidence of a man-made mine), mudflow or mudslide even if caused by earthquake;

- (3) Any earthquake occurring before the effective date and time of this policy;
- (4) Earthquake at any Dependent Property Location, Miscellaneous Unnamed Location, or Newly Acquired Location covered under the provisions of this policy.

If a cause of loss (such as fire) is covered by means of an exception to the Earthquake Exclusion in this policy, we will also pay for the loss or damage caused by that other "covered cause of loss". But the most we will pay, for the total of all loss or damage caused by earthquake and fire, is the limit of insurance applicable to such other "covered cause of loss". We will not pay the sum of the two limits.

10. Electronic Data - Property Damage

We will pay for the cost to replace or restore "electronic data" which has been destroyed or corrupted as a result of direct physical loss or damage insured by this policy. Insured direct physical loss or damage does not include physical loss or damage caused by a "computer virus" or the malicious introduction of a harmful code or similar instruction into or enacted on a "computer", computer system or a network to which it is connected, designed to damage or destroy any part of the "computer" or the system or disrupts its normal operation.

To the extent that "electronic data" is not replaced or restored, the loss will be valued at the lesser of the value of the data or the cost of replacement of the "media" on which the "electronic data" was stored, with blank media of substantially identical type.

a. This Additional Coverage also covers the cost of the following reasonable and necessary actions taken by the Insured:

- (1) To temporarily protect and preserve insured "electronic data" programs or software;
- (2) To expedite the permanent repair or replacement of such damaged property,

provided such actions are taken due to actual insured physical loss or damage to "electronic data".

b. This Additional Coverage also covers the reasonable and necessary costs incurred by the Insured to temporarily protect or preserve insured "electronic data" against immediately impending insured physical loss or damage to "electronic data". In the event that the physical loss or damage does not occur, the costs covered under this item b. will be subject to the deductible that would have applied if the physical loss or damage had occurred.

- c. Costs recoverable under this Additional Coverage are excluded from coverage elsewhere in this policy.
- d. This Additional Coverage excludes loss or damage to data, programs or software, when they are "stock-in-process", finished goods manufactured by the Insured, raw materials, supplies or other merchandise not manufactured by the Insured.
- e. The exclusions in Section IV. Exclusions, of this policy, do not apply to "electronic data", except for A.1., A.2., A.3., A.4., A.5., A.7., A.11, B.6.a., B.6.b., and B.7. and B.9. In addition, as respects "electronic data", the following exclusions apply:

This policy does not insure:

- (1) Errors or omissions in processing, or copying; all unless physical damage not excluded by this policy results, in which event, only that resulting damage is insured;
- (2) Loss or damage to data, programs or software from errors or omissions in programming or machine instructions; all unless physical damage not excluded by this policy results, in which event, only that resulting damage is insured;
- (3) Deterioration, inherent vice, vermin or wear and tear; all unless physical loss or damage not excluded by this policy results, in which event, only that resulting damage is insured;
- (4) Loss or damage caused by or resulting from manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, modify, maintain, repair or replace that system;
- (5) Theft from your data records of confidential information without any alteration or other physical loss or damage to the records or programs.

The most we will pay under this Additional Coverage - Electronic Data -Property Damage is **\$10,000** or the amount shown in the Declarations for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of Insured Locations or computer systems involved. If loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in, but not after that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

11. Equipment Breakdown

This Additional Coverage applies only when an Equipment Breakdown limit of insurance is shown in the Declarations section of this policy.

If coverage is applicable, "Covered Cause of Loss" includes Equipment Breakdown as described and limited below.

- a. We will pay for direct physical damage to covered property that is the direct result of an "accident".
- b. Unless otherwise shown in the Declarations, the following coverages also apply to the direct result of an "accident". These coverages do not provide additional amounts of insurance.

(1) Hazardous Substances

We will pay for the additional cost to repair or replace covered property because of "contamination" by a "hazardous substance". This includes the additional expenses to clean up or dispose of such property. This does not include "contamination" of "perishable goods" by refrigerant, including but not limited to ammonia, which is addressed in **b. (2) (a) (ii)** below. As used in this coverage, additional costs mean those beyond what would have been payable under this Equipment Breakdown Coverage had no "hazardous substance" been involved.

The most we will pay for loss, damage or expense under this coverage, including actual loss of Time Element you sustain and necessary Extra Expense you incur, if shown as covered, is **\$25,000**, unless otherwise shown in the Declarations.

(2) Perishable Goods

(a) We will pay:

- (i) For physical damage to "perishable goods" due to "spoilage";
- (ii) For physical damage to "perishable goods" due to "contamination" from the release of refrigerant, including but not limited to ammonia;
- (iii) Any necessary expenses you incur to reduce the amount of loss under this coverage to the extent that they do not exceed the amount of loss that

otherwise would have been payable under this coverage.

- (b) If you are unable to replace the "perishable goods" before its anticipated sale, the amount of our payment will be determined on the basis of the sales price of the "perishable goods" at the time of the "accident," less discounts and expenses you otherwise would have had. Otherwise our payment will be determined in accordance with the Valuation condition.

The most we will pay for loss, damage or expense under this coverage is **\$25,000** unless otherwise shown in the Declarations.

(3) Service Interruption

- (a) Any insurance provided for Time Element or Perishable Goods is extended to apply to your loss, damage or expense caused by the interruption of utility services. The interruption must result from an "accident" to equipment, that is owned by a utility, landlord, a landlord's utility or other supplier who provides you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, internet access, telecommunications services, wide area networks or data transmission. The equipment must meet the definition of "covered equipment" except that it is not Covered Property.
- (b) Unless otherwise shown in the Declarations, Service Interruption coverage will not apply unless the failure or disruption of service exceeds **24 hours** immediately following the "accident".
- (c) The most we will pay in any one "accident" for loss, damage or expense under this coverage is the applicable limit for Time Element or Perishable Goods, except that if a limit is shown in the Declarations for Service Interruption, that limit will apply to Time Element loss under this coverage.

12. Errors And Omissions

We will pay for direct physical loss of or damage to property which is not payable under this policy because of an unintentional omission or error at policy inception:

- a. In the description of where covered property is physically located; or

- b. To include any location:
 - (1) Owned, leased or rented by you on the effective date of this policy; or
 - (2) Purchased, leased or rented by you during the term of this policy.

This policy covers such physical loss or damage only to the extent this policy would have provided coverage had the error or unintentional omission not been made.

We will not pay under this Additional Coverage for loss or damage directly or indirectly caused by or resulting from the following regardless of any other cause or event, whether or not insured under this policy, contributing concurrently or in any other sequence to the loss:

- a. Earthquake; or
- b. Flood.

It is a condition of this coverage that such errors or unintentional omissions shall be reported and corrected when discovered. The policy premium will be adjusted accordingly to reflect the date the premises should have been added had no error or omission occurred.

13. Exhibition, Exposition, Fair Or Trade Show

We will pay for loss or damage to your personal property situated temporarily on the premises of any exhibition, exposition, fair or trade show within the policy territory. The most we will pay in any one occurrence for loss to property on exhibition is **\$300,000** or the amount stated in the Declarations, whichever is greater.

14. Expediting Expenses

We will pay the reasonable extra costs, not to exceed **\$50,000**, for temporary repair of damaged property and for expediting the permanent repairs or permanent replacement of such damaged property, including overtime wages and the extra cost of express or other rapid means of transportation. The loss or damage must be caused by a "covered cause of loss" to Covered Property,

Expediting expenses shall not include the costs incurred by the Insured for the permanent repair or replacement of damaged property.

This Additional Coverage does not cover costs recoverable elsewhere in this policy.

15. Fine Arts

Policy Issuance Date:
Policy Issuance Office:

May 6, 2019
1221 Avenue of the Americas

Endurance American Specialty Insurance Company
PAR 0201 1117

We will pay for direct physical loss or damage caused by a "covered cause of loss" to your "Fine Arts" at an Insured Location.

- a. We also cover your "Fine Arts" while:
 - (1) Temporarily on display or exhibit away from an Insured Location; or
 - (2) In transit between an Insured Location and a location where the "Fine Arts" will be temporarily on display or exhibit;

If such fine arts property is not covered by other insurance.

- b. In addition to the exclusions in the EXCLUSIONS section of this policy, as respects "Fine Arts", this Additional Coverage does not insure against loss or damage caused by:
 - (1) Breakage, marring, or scratching of covered fine arts property; or
 - (2) Any repairing, restoration, or retouching process performed on any "Fine Arts".

The most we will pay for loss to "Fine Arts" in anyone occurrence is **\$100,000** or the amount stated in the Declarations, whichever is greater.

16. Fire Department Service Charges

We will pay for the reasonable additional expenses, resulting from costs of fire extinguishing materials expended, incurred by the Insured when the Fire Department is called to save or protect covered property because of fire or explosion on or exposing an Insured Location. The Fire Department Service Charges are those:

- a. Assumed by contract or agreement prior to loss or damage; or
- b. Required by local ordinance.

17. Flood

We will pay for direct physical loss or damage caused by or resulting from flood, but this Additional Coverage applies only when a flood limit of insurance is shown in the Declarations section of this policy.

- a. The term flood means a general and temporary condition of partial or complete inundation of normally dry land areas due to:
 - (1) Flood, waves (including tidal wave and tsunami), tides, tidal water, overflow of streams or other bodies of water, or spray from any the foregoing, all whether driven by wind or not (including storm surge)

- (2) The overflow of inland or tidal waters;
- (3) The unusual or rapid accumulation or runoff of surface waters from any source;
- (4) Backup of water from a sewer, drain or sump pump caused in whole or part by flood; or
- (5) Mudslides or mudflows which are caused by flooding as defined in above.

- b. This Additional Coverage does not insure against loss or damage caused by the following regardless of any other cause or event that contributes concurrently or in any sequence to the loss:

Flood at any Dependent Property Location, Miscellaneous Unnamed Location, or Newly Acquired Location covered under the provisions of this policy.

- c. If a cause of loss (such as fire) is covered by means of an exception to the Flood Exclusion, we will also pay for the loss or damage caused by that other "covered cause of loss". But the most we will pay, for the total of all loss or damage caused by flood and fire, is the limit of insurance applicable to such other covered cause of loss. We will not pay the sum of the two limits.

18. Limited Coverage For "Fungus", Wet Rot Or Dry Rot

We will pay up to **\$15,000** for loss or damage to covered property caused by "fungus", wet or dry rot.

- a. As used in this Limited Coverage, the term loss or damage means:

- (1) Direct physical loss or damage to covered property caused by "fungus", wet or dry rot including the cost of removal of the "fungus", wet or dry rot;
- (2) The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungus", wet or dry rot; and

The cost of testing performed after removal, repair, replacement, or restoration of the damaged property is completed, provided there is a reason to believe that "fungus", wet or dry rot are present.

- b. The following, (1) or (2), applies only if Gross Earnings or Gross Profits and/or Extra Expense Coverage applies to the Insured Location(s) and only if the suspension of operations satisfies all terms and conditions of the Time Element Coverage section:

- (1) If the loss which resulted in "fungus", wet or dry rot does not in itself necessitate a suspension of operations, but such suspension is necessary due to loss or damage to property caused by "fungus", wet or dry rot, then our payment under Gross Earnings or Gross Profits and/or Extra Expense is limited to the amount of loss and/or expense sustained in a period of not more than thirty (30) days. The days need not be consecutive;
 - (2) If a covered suspension of operations was caused by loss or damage other than "fungus", wet or dry rot but remediation of "fungus", wet or dry rot prolongs the Period of Restoration, we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the Period of Restoration), but such coverage is limited to thirty (30) days. The days need not be consecutive.
- c. The "Fungus", Wet Rot or Dry Rot Limited Coverage as provided in this Additional Coverage only applies when the "fungus", wet or dry rot is the result of one or more of the following causes of loss that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence:
- (1) A "specified cause of loss" other than fire or lighting or "accident", if Equipment Breakdown Coverage applies; or
 - (2) Flood, if Flood Coverage applies to the affected Insured Location.
- d. The coverage described in this Additional Coverage – Limited Coverage For "Fungus", Wet Rot or Dry Rot is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of the causes of loss listed in c.(1) and c.(2) above which take place in a twelve (12) month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss, which results in "fungus", wet or dry rot, we will not pay more than a total of \$15,000 even if the "fungus", wet or dry rot continues to be present or active, or recurs, after the expiration of the term of this policy.

19. Miscellaneous Unnamed Locations

This policy covers direct loss or damage to the insured's Real and/or Personal Property:

- a. Of the type covered in this policy;
- b. At Locations that are not specified in the Schedule of Locations; and
- c. Within the policy Territory;

Subject to the following:

- a. No coverage is provided under this provision on property while in transit or waterborne, nor while on the premises of any exhibition, exposition, fair or trade show;
- b. This Additional Coverage excludes property insured under any other coverage in this policy; and
- c. This Additional Coverage does not insure against loss or damage caused by or resulting from the following regardless any other cause or event that contributes concurrently or in any sequence to the loss:
 - (1) Earthquake; or
 - (2) Flood.

Our liability for loss or damage under this Miscellaneous Unnamed Location provision arising out of one occurrence shall not exceed **\$1,000,000**, or the amount stated in the Declarations.

20. Newly Acquired Property

This policy is extended to cover property purchased, newly constructed, leased, or rented at locations within the policy territory for occupancy by the Insured, including business personal property while under the care, custody and control of the Insured at any such location, after the inception date of this policy.

Coverage under this Newly Acquired Property provision shall commence when the Insured first acquires an insurable interest at the location, and shall cease at the earliest of:

- a. The expiration date of this policy; or

- b. When the location is reported to and accepted by us; or
- c. When the Time Limit as shown in the Time Limits of Liability section in the Declarations has been reached. The Time Limit begins on the date the Insured first acquires an interest in the Covered Property.

This Newly Acquired Property provision shall not apply to:

- a. Property while in transit, waterborne, nor while on the premises of any exhibition, exposition, fair or trade show;
- b. Property insured herein or by any other insurance policy;
- c. Loss or damage directly or indirectly caused by or resulting from earthquake and/or flood.

Our liability for loss or damage under this Newly Acquired Property provision arising out of one occurrence shall not exceed **\$1,000,000**, or the amount stated in the Declarations.

We will charge you additional premium for values reported from the date you acquire the property.

21. Off-Premises Service Interruption - Property Damage

This policy covers direct physical loss of or damage to covered property at an Insured Location when such physical loss or damage results from the interruption of an off premises incoming service consisting of electricity, gas, fuel, steam, water, refrigeration, the lack of outgoing sewerage service, or from the lack of communication services including telephone, radio, microwave, or television services such as communication transmission line, coaxial cables, and microwave radio relays except satellites.

- a. The lack of service must result from direct physical loss or damage of the type insured against under this policy to property at the facilities of the supplier of such service located within this policy's Territory, that immediately prevents in whole or in part the delivery of such usable services;
- b. If the Declarations indicate that overhead transmission lines are excluded, coverage under this Additional Coverage does not include loss to overhead transmission lines that deliver utility service to you. Overhead transmission lines include, but are not limited to overhead transmission and distribution lines, overhead transformers and similar equipment, and supporting poles and towers;
- c. Exclusions:
 "Perishable Stock" Exclusion - Coverage under this Additional Coverage does not include loss of "perishable stock" due to "spoilage".

d. Additional General Conditions:

- (1) As soon as practicable, the Insured will notify the suppliers of services of any interruption of such services;
- (2) We will not be liable if the interruption of such services is caused directly or indirectly by the failure of the Insured to comply with the terms and conditions of any contracts the Insured has for the supply of such specified services.

e. Applicable Limit:

The most we will pay in any one occurrence under this Additional Coverage is **\$10,000** or the combined amount stated in the Declarations.

Any coverage under this policy for Off-Premises Service Interruption-Property Damage does not apply to the Additional Coverage Equipment Breakdown Service Interruption coverage.

22. Ordinance Or Law - Demolition And Increased Cost Of Construction

We will pay the following additional costs when there is direct physical damage as insured against to building(s) or structure(s) covered by this policy, and such additional costs are occasioned by the enforcement of any law or ordinance regulating the construction, repair, replacement, use or demolition of building(s) or structure(s) which is in force at the time of loss and necessitates the following costs:

- a. Cost to demolish and clear the site of undamaged parts of the same building that sustained damage; and
- b. If the covered building is repaired, or rebuilt, the increased cost to repair, rebuild, or reconstruct both the damaged and undamaged portions whether or not those undamaged portions need to be demolished.

The covered building or structure may be repaired or rebuilt at the same premises, or the Insured may elect to rebuild at another premises; however, the most we will pay under this coverage for increased costs is the increased cost of construction at the same premises to comply with the minimum requirements of such law or ordinance.

If the covered building or structure is repaired or replaced, we will pay the lesser of:

- a. The amount you actually spend to demolish and clear the site, plus the actual increased costs expended to repair, rebuild, or construct the property; or
- b. **\$250,000**, unless a different amount is shown on the Declarations.

This Additional Coverage provision shall not:

- a. Cover any increase of loss associated with the enforcement of any law or ordinance which requires the Insured or others to test for, monitor, cleanup, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effects of "pollutants".
- b. Increase any amounts or limits of insurance provided by this policy.
- c. Cover any loss due to any law or ordinance that the Insured was required to comply with before the loss, and failed to comply with.

23. Ordinance Or Law - Undamaged Parts Of A Building

When there is direct physical damage as insured against to building(s) or structure(s) covered by this policy, we will pay for the loss in value of any undamaged portion of the building or structure that is required to be demolished as a result of the enforcement of an ordinance, law or decree that:

- a. Requires the demolition of undamaged parts of the same building or structure as a result of such insured physical loss or damage;
- b. Regulates the construction or repair of a building or structure, or establishes building, zoning, or land use requirements at the described premises; and
- c. Is in force at the time of loss.

When there is loss in value of an undamaged portion of a building to which this coverage applies, the loss payment for that building, including damaged and undamaged portions, will be determined as follows:

- a. If the basis of recovery is replacement cost and the property is being repaired or replaced, on the same or another premises, we will not pay more than the lesser of:
 - (1) The amount you would actually spend to repair, rebuild or reconstruct the building, but not for more than the amount it would cost to restore the building on the same premises and to the same height, floor area, style and comparable quality of the original property insured; or
 - (2) The limit of insurance applicable to the covered building.
- b. If replacement cost is not the basis of coverage and/or the property is not repaired or replaced, we will not pay more than the lesser of:
 - (1) The actual cash value of the building at the time of loss; or
 - (2) The limit of insurance applicable to the covered building.

This Additional Coverage provision shall not cover any increase of loss associated with the enforcement of any law, ordinance, or decree that requires the Insured or others to test for, monitor, cleanup, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of "pollutants".

This coverage shall not increase any amounts or limits of insurance provided by this policy.

24. Pollutant Cleanup And Removal

We will pay the necessary and reasonable expenses actually incurred by you to cleanup and remove "pollutants" from land or water confined to Insured Locations if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is directly caused by physical loss or damage not otherwise excluded, which occurs during the term of this policy. This coverage does not apply to any expense incurred by an insured to cleanup and remove:

- a. "Pollutants" from land or water at any location covered under the provisions of the Newly Acquired Property Coverage Extension provided in this section; or
- b. "Pollutants" from land or water at any "Miscellaneous Unnamed Location".

Our liability for loss or damage under this Pollutant Cleanup and Removal provision arising out of one occurrence at each location, or in the aggregate for all such losses in any one policy year at each location, shall not exceed **\$50,000**, or the amount stated in the Declarations.

No liability shall exist under this Pollutant Cleanup and Removal provision unless such expenses are reported to us within one hundred eighty (180) days of the date of direct physical loss or damage, or the expiration of this policy, whichever shall be earlier.

25. Professional Fees

This policy covers the actual costs incurred by the Insured, for reasonable fees paid to the Insured's accountants, architects, auditors, engineers, or other professionals, and the cost of using the Insured's employees for producing and

certifying any details contained in the Insured's books or documents, or such other proofs, information or evidence required by us resulting from loss or damage payable under this policy for which we have accepted liability.

This Additional Coverage will not include the fees and costs of attorneys, public adjusters, and loss appraisers, all including any of their subsidiary, related or associated entities either partially or wholly owned by them or retained by them for the purpose of assisting them, nor the fees and costs of loss consultants who provide consultation on coverage or negotiate claims.

This coverage is subject to the deductible that applies to the loss.

26. Protection and Preservation Of Property

In the event of actual or imminent physical loss or damage as insured against, this policy is extended to cover the necessary and reasonable expenses incurred by you in recovering and temporarily safeguarding covered property. The expenses so incurred shall be paid by you and us proportionately to the extent of our respective interest. Our portion of such expenses shall be limited to the extent such expenses reduce loss or damage which would otherwise be payable under this policy. This provision does not increase any amounts of insurance which may be applicable and the deductible provisions shall apply to any expenses so incurred.

27. Recharge of Fire Extinguishing Equipment

We will pay up to **\$25,000** to cover your incurred expenses to recharge your automatic fire extinguishing equipment or hand held fire extinguishing equipment when the equipment is discharged:

- a. To fight a fire;
- b. As a result of a covered peril; or
- c. As a result of an accidental discharge.

However, we will not pay for your expenses to recharge equipment as a result of a discharge during testing or installation.

If it is less expensive to do so, we will pay your costs to replace your automatic fire extinguishing equipment or hand held fire extinguishing equipment rather than recharge the equipment.

28. Sales Representative Samples

We will pay for direct physical loss or damage as insured against to:

- a. Samples of your stock in trade (including containers); while the property is off the premises of an Insured Location and in the custody of your sales representatives and agents; and
- b. Similar business property of others when in the custody of your sales representatives, or agents (exclusively for your benefit), or yourself while acting as a sales representative while the property is off the premises of an Insured Location, or while in transit between an Insured Location and your sales representatives.

The most we will pay in any one occurrence for loss of or damage to samples of your stock in trade is **\$50,000**.

29. Spoilage

Policy Issuance Date:
Policy Issuance Office:

May 6, 2019
1221 Avenue of the Americas

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We will pay for direct physical loss of "perishable stock" due to "spoilage" caused by a "covered cause of loss" while at an Insured Location.

Only with respect to this Additional Coverage - Spoilage:

- a. A "covered cause of loss" means:
- (1) Breakdown or Contamination - We cover changes in temperature or humidity resulting from mechanical breakdown or mechanical failure of refrigerating, cooling or humidity control apparatus or equipment, only while such equipment or apparatus is at an Insured Location;
 - (2) Refrigerant Contamination - We cover loss of "perishable stock" due to refrigerant "contamination" from the release of refrigerant, including but not limited to ammonia;
 - (3) Power Disruption - We cover changes in temperature or humidity resulting from complete or partial interruption of electrical power, either on or off the described Insured Location, due to conditions beyond your control.
- b. Property located on buildings or in the open or in vehicles is considered to be Property Not Covered.

- c. The following Exclusions are added:

We will not pay for loss or damage caused by or resulting from:

- (1) The disconnection of any refrigerating, cooling or humidity control system from the source of power.
 - (2) The deactivation of electrical power caused by the manipulation of any switch or other device used to control the flow of electrical power or current.
 - (3) The inability of an Electrical Utility Company or other power source to provide sufficient power due to:
 - (a) Lack of fuel; or
 - (b) Governmental order.
 - (4) The inability of a power source at the Insured Location to provide sufficient power due to lack of generating capacity to meet demand.
 - (5) Breaking of any glass that is a permanent part of any refrigerating, cooling or humidity control unit.
- d. The following condition applies in addition to the General Policy

Conditions:

REFRIGERATION MAINTENANCE AGREEMENTS

You must maintain a refrigeration maintenance or service agreement. If you voluntarily terminate this agreement and do not notify us, the insurance provided by this Additional Coverage will be automatically suspended at the involved location.

The most we will pay in any one occurrence is **\$25,000** or the amount stated in the Declarations, whichever is greater.

Any coverage under this policy for Spoilage does not apply to the Additional Coverage Equipment Breakdown Perishable Goods coverage.

30. Temporary Removal Of Property

When covered property is removed from an Insured Location for the purpose of being repaired or serviced or in order to avoid threatened physical loss or damage of the type insured by this policy, this policy covers such property for up to 365 days after the property is first moved, but does not extend past the date on which this policy expires, subject to a limit of liability of **\$100,000**:

- a. While at the location to which such property has been moved; and
- b. For physical loss or damage as provided at the Insured Location from which such property was removed.

This provision shall not apply to personal property removed from the Insured Location for normal storage, processing or preparation for sale or delivery; nor to property covered by other insurance.

31. Transit Coverage

This Additional Coverage applies only when a Transit limit of insurance is shown in the Declarations section of this policy. If a Transit limit of insurance is shown in the Declarations:

This policy is extended to cover personal property of the Insured, including the Insured's interest in and the Insured's liability for personal property of others, while in the custody of the Insured, while such property is in due course of transit within and between the United States of America, its territories and possessions, Puerto Rico and Canada, but subject to the limit of liability and deductible amount shown under the Declarations.

This Additional Coverage is also subject to the following:

- a. **Additional Property Exclusions** - This Additional Coverage does not insure against loss or damage to:
 - (1) The conveyance used as the mode of transportation (including

any part of equipment thereof) or containers;

- (2) Property insured under any marine import or export policy;
- (3) Property shipped by mail or parcel post from the time it passes into the custody of the Postal Service;
- (4) Property while waterborne except while on the navigable inland waters of the United States, Puerto Rico or Canada;
- (5) Samples of merchandise while in the care, custody or control of the named Insured's salesmen or sales representatives;
- (6) Property of others, including the Insured's legal liability for it, hauled on vehicles owned, leased or operated by the Insured when acting as a common or contract carrier.

b. Additional Exclusions - This Additional Coverage does not insure against loss:

- (1) With respect to vehicles operated by the Named Insured, by theft from a vehicle while unattended unless the portion of the vehicle containing the insured property is of entirely closed construction and, at the time of loss, the doors of which shall have been securely locked and the windows of which shall have been firmly closed, and the loss is a direct result of forcible entry of which there shall be visible evidence.
- (2) Due to any fraudulent, dishonest or criminal act or omission by the named Insured or a partner of the named Insured; or by theft by any employee of the named Insured, while working or otherwise, or by any person to whom the of a carrier for hire;
- (3) Resulting from interruption of business, delay, loss of market or use, or indirect or consequential loss of any kind;
- (4) Caused directly or indirectly by seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade.

c. Additional Conditions

- (1) **Benefit to Bailee -** This insurance shall not inure directly or indirectly to the benefit of any carrier or other bailee.
- (2) As respects this Additional Coverage, all subrogation provisions of this policy are superseded by the following:
 - (a) **Impairment Of Recovery Rights -** Any act or agreement by the named Insured before or after loss whereby any right of

the named Insured to recover in whole or in part for loss to property against any carrier for hire, bailee, or other party liable there for, is released, impaired or lost, shall render the insurance null and void, but the Company's right to retain or recover the premium shall not be affected. The named Insured, however, may, without prejudice to this insurance, accept the ordinary limited liability form receipts or bills of lading issued by carriers for hire. The Company is not liable for any loss, which, without the written consent of the Company, has been settled or compromised by the named Insured;

- (b)** Right To Institute Legal Proceedings In Name Of Insured - Upon payment of any loss or advancement or loan of money concerning the same, the Insured will, at the request and expense of the Company and through such counsel as the Company may designate, make claim upon and institute legal proceedings against any carrier, bailee or other parties believed to be liable for such loss, and will use all proper and reasonable means to recover the same.
- (3)** General Average and Salvage - This Additional Coverage covers general average and salvage charges on shipments covered while waterborne.
- (4)** Attachment of Liability - Coverage attaches from the time the property leaves the initial point of shipment until it is delivered at destination. This insurance covers only such shipments, the transportation of which begins within the term of this policy, even though said transportation is not completed within such time and loss or damage may occur after the end of such time.
- (5)** Export and Import Shipments - Coverage provided by this Additional Coverage shall apply to export shipments only until "on board" bills of lading are issued or coverage under ocean marine policy attaches. This insurance shall also cover import shipments, but only after coverage on such shipments under ocean marine policies has ceased, or, if not insured under ocean marine policies, after discharge from overseas vessel.
- (6)** F.O.B. Shipments - Coverage shall apply to the Insured's contingent interest in shipments of property sold F.O.B. (free on board) point of shipment or otherwise; provided that any loss recoverable in this coverage to such property is not collectible from any other insurance.
- (7)** Fraudulent Bills of Lading - This Additional Coverage shall also apply to loss of merchandise occasioned by the unintentional acceptance of fraudulent bills of lading, shipping or messenger receipts.

Section B, IV. Exclusions A.2. and A.3. of this policy are deleted with respect only to property in transit.

32. Trees, Shrubs, and Plants

We cover direct physical loss (and debris removal expenses) to outdoor trees, shrubs, plants, and lawns at an Insured Location. We only cover loss caused by:

- a. Fire;
- b. Lightning;
- c. Explosion;
- d. Riot or civil commotion;
- e. Falling objects; or
- f. Vandalism.

The most we will pay for loss of or damage to trees, shrubs, plants, and lawns in any one occurrence is **\$100,000**.

Coverage under this Additional Coverage does not apply to property held for sale by you.

33. Valuable Papers and Records

We will pay for direct physical loss of or damage as insured against to Valuable Papers and Records that are your property or property of others in your care, custody or control while at an Insured Location.

We will pay:

- a. Your reasonable and necessary costs to research, replace or restore the lost information on Valuable Papers and Records for which duplicates do not exist; and
- b. The cost of blank materials for reproducing the records (whether or not duplicates exist), and (when there is a duplicate) for the cost of labor to transcribe or copy the records.

The most we will pay to research, replace or restore the lost information is **\$25,000** per occurrence, unless a higher limit is shown in the Declarations. Valuable Papers and Records mean written, printed or otherwise inscribed documents and records, including books, maps, films, drawings, abstracts, deeds, mortgages and manuscripts, all of which must be of value to you.

But Valuable Papers and Records does not mean money or securities, converted data, programs or instructions used in your data processing operations, including

the materials on which the data is recorded.

This Additional Coverage excludes loss or damage to property held as samples, or for sale, or for delivery after sale if such property cannot be replaced with other of like kind and quality, unless specifically declared to the Company.

IV. EXCLUSIONS

A. This policy excludes loss or damage directly or indirectly caused by or resulting from any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss:

1. **Ordinance Or Law And Interference** - This policy does not insure against any loss or increased cost caused by:
 - a. Enforcement of any code, ordinance, or law regulating the use, construction, or repair of any building or structure; or requiring the demolition of any building or structure including the cost of removing debris, except as provided under Ordinance or Law and Decontamination in the Additional Coverages section of this policy.
 - b. Interference at an Insured Location by strikers or other persons, with rebuilding, repairing, or replacing property, or with the resumption or continuation of business.
2. **Earthquake/Volcanic Action** - This policy does not insure against loss or damage caused by any earthquake, or caused by eruption, explosion, or effusion of a volcano. Earthquake means earth movement caused by natural faulting of land masses, including the sinking, rising, or shifting of earth.

Volcanic action means airborne volcanic blast or airborne shock waves ash, dust, or particulate matter; or lava flow. It does not include the cost to remove ash, dust, or particulate matter that does not cause direct physical loss to the covered property.

This exclusion does not apply to any loss or damage covered under the Additional Earthquake Coverage section of this policy.

3. **Water** - This policy does not insure against loss or damage caused by:
 - a. Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of streams or other bodies of water, or spray from any of the foregoing, all whether driven by wind or not (including storm surge);
 - b. Mudslide or mudflow; or

- c. Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;
- d. Waterborne material carried or otherwise moved by any of the water referred to in Paragraph a., b., or c.;

except as provided under the Flood Additional Coverages section of this policy.

If any of the above, in Paragraphs 3.a. through 3.d. results in fire, explosion, or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion, or sprinkler leakage.

- 4. **Nuclear Hazard** - This policy does not insure against loss or damage caused by or resulting from nuclear reaction or nuclear radiation, or radioactive contamination.

However:

- a. If physical damage by fire or sprinkler leakage results, then only that resulting damage is insured; but not including any loss or damage due to nuclear reaction, radiation or radioactive contamination; but
- b. This policy does insure physical damage directly caused by sudden and accidental radioactive contamination, including resultant radiation damage, from material used or stored or from processes conducted on the Insured Location, provided that on the date of loss, there is neither a nuclear reactor nor any new or used nuclear fuel on the Insured Location.

- 5. **War And Military Action** – This policy does not insure against loss or damage caused directly or indirectly by the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

- a. War, including undeclared or civil war; or
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign, or other authority, using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

- 6. **Governmental Action** – This policy does not insure against loss or damage caused by seizure or destruction of property by order of governmental authority.

However, we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this policy.

- 7. **Off Premises Utility Services** – This policy does not insure against loss or damage caused by the failure of power or other utility service supplied to the described premises, however caused, if the failure occurs away from the

described premises, except as provided in the Off-Premises Service Interruption clauses in the Property Damage and Time Element sections of this policy. Failure includes lack of sufficient capacity and reduction in supply.

However, if the failure of power or other utility service results in physical damage not otherwise excluded by this policy to property situated at an Insured Location, then we shall be liable for only such resulting physical damage.

8. **“Fungus”, Wet Rot, Dry Rot** – This policy does not insure against loss or damage caused by the presence, growth, proliferation, spread or any activity of “fungus”, wet or dry rot.

But if “fungus”, wet or dry rot results in a “specified cause of loss” or “accident” and if Equipment Breakdown Coverage applies, we will pay for the loss or damage caused by that “specified cause of loss” or “accident”.

This exclusion does not apply:

- a. When “fungus”, wet or dry rot results from fire or lightning; or
- b. To the extent that coverage is provided under Limited Coverage For “Fungus”, Wet Rot Or Dry Rot in the Additional Coverages section of this policy, with respect to loss or damage by a cause of loss other than fire or lightning.

9. **Loss Due To Virus Or Bacteria** - This policy does not insure against loss or damage caused by or resulting from any virus, bacterium or other micro-organism that induces or is capable of inducing physical distress, illness or disease; however, this exclusion does not apply to loss or damage caused by or resulting from “fungus”, wet rot, dry rot. Such loss or damage is addressed in a separate exclusion in this policy.

This exclusion applies to all coverage under all forms and endorsements that comprise this policy, including but not limited to forms or endorsements that cover property damage to buildings or personal property and forms or endorsements that cover gross earnings, extra expense or action of civil authority.

With respect to any loss or damage subject to this exclusion, such exclusion supersedes any exclusion relating to “pollutants”.

10. **Absolute Asbestos** - This policy does not insure against loss or damage caused by, resulting from, in any way related to or caused by exposure to asbestos.
11. **Computer Virus** - This policy does not insure against loss or damage caused by or resulting from a “computer virus” or the malicious introduction of a harmful code or similar instruction into or enacted on a “computer”, computer system or a network to which it is connected.

- B. This policy will not pay for loss or damage caused by or resulting from any of the following unless specifically stated elsewhere in this policy:

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1. **Electrical Currents** - Artificially generated electrical current, including electric arcing, that disturbs electrical devices, appliances or wires. But if artificially generated electrical current results in fire, we will pay for the loss or damage caused by that fire.

This exclusion does not apply:

- a. To "computers"; or
- b. To the extent that coverage is provided in the Equipment Breakdown or Spoilage Additional Coverages.

2. **Mechanical Breakdown** - Mechanical or machinery breakdown, including rupture or bursting caused by centrifugal force and the rupture, bursting or operation of pressure relief devices.

This exclusion does not apply:

- a. To "computers"; or
- b. To the extent that coverage is provided in the Equipment Breakdown or Spoilage Additional Coverages.

3. **Steam Explosion** - Explosion of steam boilers, steam pipes, steam engines, or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

This exclusion does not apply to the extent that coverage is provided in the Additional Coverage Equipment Breakdown.

4. **Consequential Loss** - Delay, loss of use, or loss of market.

5. **Other Types Of Losses** - This policy does not insure against the following types of loss or damage:

- a. Indirect or remote loss or damage;
- b. Interruption of business, unless otherwise provided hereon;
- c. Wear and tear;
- d. Rust, corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- e. Accumulated effects of smog, smoke, vapor, gas, liquid and dust;
- f. Settling, cracking, shrinking, bulging or expansion of foundations, floors, pavements, walls, ceilings, or roofs;

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- g. Nesting or infestation, or discharge or release of waste products or secretions by insects, birds, rodents or other animals;
- h. To business personal property or "perishable stock" caused by the following causes of loss:
 - (1) Dampness or dryness of atmosphere;
 - (2) Changes in or extremes of temperatures;
 except as provided under the Off-Premises Service Interruption or Spoilage Additional Coverages;
- i. Marring or scratching to business personal property; or
- j. To the interior portion of buildings under construction from rain, sleet, or snow, whether or not driven by wind, when the installation of the roof, walls and windows of such buildings has not been completed.

6. Certain Computer-Related Losses - We will not pay for the failure, malfunction or inadequacy of:

- a. Any of the following, whether belonging to any Insured or to others:
 - (1) "Computer" hardware, including microprocessors;
 - (2) "Computer" application software;
 - (3) "Computer" operating systems and related software;
 - (4) "Computer" networks;
 - (5) Microprocessors ("computer" chips) not part of any "computer" system; or
 - (6) Any other computerized or electronic equipment or components; or
- b. Any other products, and any services, data or functions, that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph 6.a. above;

due to the inability to correctly recognize, process, distinguish, interpret or accept one or more dates or times. An example is the inability of "computer" software to recognize the year 2000.

We will not pay for repair, replacement or modification of any items in this exclusion to correct any deficiencies or change any features.

7. Water Seepage Or Leakage - We will not pay for continuous or repeated

seepage or leakage of water that occurs over a period of 14 days or more.

8. **Dishonesty** - We will not pay for loss caused by or resulting from criminal, fraudulent, dishonest, or illegal acts committed alone or in collusion with another by:
 - a. You;
 - b. Your partners, members, officers, managers, employees including leased employees), directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:
 - (1) Acting alone or in collusions with others; or
 - (2) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees (including leased employees), but theft by employees (including leased employees) is not covered.

9. **Voluntary Parting** - We will not pay for 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.
10. **Pollution** - This policy does not insure against loss or damage due to the discharge, dispersal, seepage, migration, release or escape of "pollutants" except as provided in the Additional Coverage section of this policy, unless the discharge, dispersal, seepage, migration, release or escape is directly caused by physical loss or damage not otherwise excluded.
11. **Collapse** - This policy does not insure against loss or damage caused by collapse, except as provided in the Collapse Additional Coverage section of this policy. But if collapse results in a "covered cause of loss" at an Insured Location, we will pay for the loss or damage caused by that covered cause of loss.
12. **Missing Property** - This policy does not insure against missing property when the only proof of loss is unexplained, or mysterious disappearance or shortage discovered on taking inventory, or other instance where there is no physical evidence to show what happened to the property.

C. We will not pay for loss or damage caused by or resulting from the following unless it results from other direct physical loss or damage not excluded by this policy:

1. **"Contamination"** - We will not pay for any cost due to "contamination" including the inability to use or occupy property or any cost of making property safe or suitable for use or occupancy. If "contamination" due only to the actual not suspected presence of "contaminants" directly results from other physical damage not excluded by this policy, then only physical damage caused by such "contamination" may be insured.

This exclusion does not apply to radioactive "contamination" which is excluded elsewhere in this policy.

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2. Shrinkage, evaporation, leakage of contents, change in flavor or texture or finish, decay or other spoilage, unless such loss or damage results directly from other physical damage not excluded in this policy.

D. We will not pay for loss or damage caused by or resulting from any of the following, but if an excluded cause of loss results in a "covered cause of loss", we will pay for the loss or damage caused by that "covered cause of loss":

1. **Defects, Errors, and Omissions** - This policy does not insure against loss or damage resulting from any act, error, or omission (whether by the Insured or others) in:
 - a. Planning, zoning, surveying, siting or developing property;
 - b. Establishing or enforcing building codes or standards for construction or materials;
 - c. The cost of correcting or making good an error in design;
 - d. Designing, establishing the specifications, furnishing work, materials, parts or equipment, or constructing or maintaining the following property or facilities:
 - (1) Buildings or structures;
 - (2) Improvements or changes in or additions to land or other property; or
 - (3) Roads, water mains, sewers, drainage ditches, levees, dams or other facilities; all whether or not such property or facilities are:
 - (a) Covered by this policy, or
 - (b) Away from the premises covered by this policy.

In addition, we do not pay for loss to business personal property caused by deficiencies or defects in design, specifications, materials, or workmanship, or caused by latent or inherent defects.

E. **Equipment Breakdown** – In addition to all other Exclusions, we will not pay under the Additional Coverage Equipment Breakdown for loss or damage caused by or resulting from:

1. Any of the following tests:
 - a. A hydrostatic, pneumatic or gas pressure test of any boiler or pressure vessel; or an electrical insulation breakdown test of any type of electrical equipment; or
2. Any of the following:

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- a. Any defect, programming error, programming limitation, "computer virus", malicious code, loss of "electronic data", loss of access, loss of use, loss of functionality or other condition within or involving "electronic data" or "media" of any kind; or
- b. Misalignment, miscalibration, tripping off-line, or any condition which can be corrected by resetting, tightening, adjusting or cleaning, or by the performance of maintenance.

However, if an "accident" results, we will pay for the resulting loss, damage or expense caused by that "accident".

- 3. With respect to Service Interruption coverage, we will also not pay for an "accident" caused by or resulting from: fire; lightning; windstorm or hail; explosion (except as specifically provided in the Definitions Section E, 1.c.; smoke; aircraft or vehicles; riot or civil commotion; vandalism; sprinkler leakage; falling objects; weight of snow, ice or sleet; freezing; collapse; flood or earthquake.
- 4. With respect to Time Element and Service Interruption coverages, we will also not pay for:
 - a. Loss caused by your failure to use due diligence and dispatch and all reasonable means to resume business; or
 - b. Any increase in loss resulting from an agreement between you and your customer or supplier.

SECTION C - TIME ELEMENT COVERAGE PART

This policy insures against "Time Element" loss as provided in the Time Element Coverages and Time Element Coverage Extensions of this section of the policy, subject to the following:

I. TIME ELEMENT COVERAGE PROVISIONS

- A. Coverage for "Time Element" loss is provided only when a limit of insurance or the word "Included" is shown in the Declarations section of this policy.
- B. Time Element Coverages and Time Element Coverage Extensions are subject to the applicable limit of liability that applies to the insured physical loss or damage but in no event for more than any limit of liability that is stated as applying to the specific Time Element Coverage and/or Extension.
- C. A Time Element Coverage and/or Extension may indicate an applicable limit of insurance in this section of the policy. This limit may also be shown in the Declarations. If a different limit is indicated in the Declarations, that limit will apply instead of the limit shown in this section.
- D. The Time Element Coverages and Time Element Coverage Extensions provided in this section of the policy:
 - 1. Are subject to the policy provisions, including applicable exclusions and deductibles; and
 - 2. Will not increase the Policy Limit of Liability.

"Time Element" Coverages, also known as Business Income insurance or Business Interruption insurance, can mean, but is not limited to, any of the following in any combination: Gross Earnings or Gross Profits, Earnings, Earnings Only, Extra Expense, Leasehold Interest, and Rental Insurance.

II. LOSS INSURED

- A. If applicable, this policy insures "Time Element" loss the Insured sustains as provided in the Time Element Coverages. The Time Element loss must result from the necessary "suspension" of the insured's business activities at an Insured Location during the Period of Restoration. The "suspension" must be due to direct physical loss of or damage to property of the type insurable under this policy, and the loss or damage must be caused by a "covered cause of loss" as insured against in this policy.

There is recovery only to the extent that the Insured is:

1. Unable to make up lost production within a reasonable period of time not limited to the period during which production is suspended;
 2. Unable to continue such operations or services during the Period of Restoration; and
 3. Able to demonstrate a loss of revenue for the operations, services or production suspended.
- B.** This policy insures "Time Element" loss only to the extent it cannot be reduced through:
1. The Insured resuming business activities in whole or part;
 2. The use of any property or service owned or controlled by the Insured;
 3. Using the services or property of others;
 4. Working extra time or overtime; or
 5. The use of inventory,
- all whether at an Insured Location or at any other location. We will include in any calculation the combined operating results of all Insured Locations and associated or affiliated companies of the Insured in determining the "Time Element" loss.
- C.** This policy covers expenses reasonably and necessarily incurred by the Insured to reduce the loss otherwise payable under this section of this policy. The amount of such recoverable expenses will not exceed the amount by which the loss has been reduced.
- D.** In determining the amount of loss payable, we will evaluate the experience of the business before and after the loss or damage and the probable experience had no direct physical loss or damage occurred at an Insured Location during the Period of Restoration.

III. TIME ELEMENT COVERAGES

A. Gross Earnings

We will pay for the actual loss of Gross Earnings sustained by the Insured due to the necessary "suspension" of the Insured's business activities during the Period of Restoration. The "suspension" must be due to physical loss or damage of the type insured against to real or personal property of the type covered, at Insured Locations.

1. Recovery in the event of loss shall be the actual loss sustained, less charges and expenses that do not necessarily continue during the suspension of the Insured's business activities. Consideration shall be given to the continuation of normal charges and expenses, including payroll expense, to the extent necessary to resume the Insured's business activities with the same quality of service that existed immediately preceding the loss.
2. For the purpose of this insurance, Gross Earnings is determined as follows:

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- a. The sum of:
 - (1) For manufacturing operations: the total net sales value of production;
 - (2) For mercantile or non-manufacturing operations: the total net sales of merchandise;
 - (3) Other earnings derived from operations of the business.

- b. Less the cost of the following:
 - (1) "Raw stock" used in production;
 - (2) Supplies consisting of materials consumed directly in conversion of "raw stock" into "finished stock" or in supplying the service(s) sold by the insured;
 - (3) Merchandise sold, including related packaging materials; and
 - (4) Services purchased from outsiders (not Insured's employees) for resale, which do not continue under contract.

Any amount recovered under Property Damage coverage at selling price for loss or damage to merchandise will be considered to have been sold to the Insured's regular customers and will be credited against net sales.

B. Extra Expense

We will pay for the reasonable and necessary Extra Expense incurred by the Insured, to resume and continue as nearly as practicable the Insured's "normal" business activities that otherwise would be suspended, due to direct physical loss of or damage caused by a "covered cause of loss" to property at an Insured Location.

Extra Expense, wherever used in this policy, means that amount spent during the Period of Restoration to continue the Insured's business activities, over and above the expenses the Insured would normally have incurred had there been no necessary suspension of the Insured's business activities.

- 1. Recovery in the event of loss will be the reasonable and necessary extra costs incurred by the Insured of the following during the Period of Restoration:
 - a. Extra expenses to avoid or minimize the "suspension" of business and to continue operations at the Insured Location, or at replacement locations, or temporary locations, including relocation expenses and costs to equip and operate the replacement or temporary location; and
 - b. Extra costs to minimize the "suspension" of business if it is not possible to continue operating during the Period of Restoration;

less any value remaining at the end of the Period of Restoration for property obtained in connection with the above.

2. Extra Expense(s) does not include any of the following:
 - a. Any Gross Earnings or other income loss;
 - b. Costs that normally would have been incurred in conducting the business during the same period had no physical loss or damage occurred;
 - c. Cost of permanent repair or replacement of property that has been damaged or destroyed;
 - d. Any expense recoverable elsewhere in this policy.

C. Rental Value

We will pay the Rental Value loss, if any, sustained by the Insured resulting directly from necessary untenability, caused by direct physical loss or damage of the type insured against to property at Insured Locations.

Rental Value means income that would have been earned or incurred as rental income from tenant occupancy, including fair rental value of any portion of the premises which is occupied by the Insured, and continuing "normal" operating expenses incurred in connection with the property at the Insured Location.

1. Recovery in the event of loss is the actual loss sustained by the Insured of the following during the Period of Restoration:
 - a. The fair rental value of any portion of the property occupied by the Insured;
 - b. The total anticipated rental income from tenant occupancy of the Insured Location as furnished and equipped by the Insured; and
 - c. The rental income from the rented portions of such property according to bona fide leases, contracts or agreements in force at the time of loss,all not to include non-continuing charges and expenses.
2. As respects Rental Value, item VI.A. of the Time Element Exclusions section of this policy does not apply and the following applies instead:
 - a. This policy does not insure any loss of rental income during any period in which the insured property would not have been tenantable for any reason other than an insured loss.

D. Leasehold Interest

We will pay the actual Leasehold Interest loss incurred by the Insured (as lessee)

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resulting from direct physical loss of or damage caused by a "covered cause of loss" to a building (or structure) which is leased and not owned by the Insured.

1. The recoverable Leasehold Interest is as follows:

- a. If the building (or structure) becomes wholly untenable or unusable and the lease agreement requires continuation of the rent, we will pay the Insured the actual rent payable for the unexpired term of the lease, not including any options;
- b. If the building (or structure) becomes partially untenable or unusable and the lease agreement requires continuation of the rent, we will pay the Insured the proportion of the rent payable for the unexpired term of the lease; or
- c. If the lease is cancelled by the lessor pursuant to the terms of the lease agreement or by operation of law, this policy will pay the Insured for their Lease Interest for the first three (3) months following the loss or damage and for their Net Lease Interest for the remaining unexpired term of the lease.

The Insured must use any suitable property or service owned, controlled, or obtainable from any source to reduce the loss.

2. In addition to the exclusions elsewhere in this policy, the following exclusions apply to Leasehold Interest:

This policy does not insure any increase in loss resulting from the suspension, lapse or cancellation of any lease, or from the Insured exercising an option to cancel the lease; or from any act or omission of the Insured that constitutes a default under the lease.

In addition, there is no coverage for the Insured's loss of Leasehold Interest directly resulting from physical loss or damage to personal property.

3. The following term(s) mean:

- a. Lease Interest - The excess rent paid for the same or similar replacement property over actual rent payable plus cash bonuses or advance rent paid (including maintenance or operating charges) for each month during the unexpired term of the Insured's lease;
- b. Net Lease Interest - That sum which placed at 6% interest rate compounded annually would equal the Lease Interest (less any amounts otherwise payable hereunder).

IV. TIME ELEMENT COVERAGE EXTENSIONS

If this policy insures "Time Element" loss, as provided by the Time Element Coverages of this

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policy, the Time Element Coverage Extensions apply as described below.

A. Dependent Locations

We will pay the actual loss sustained by the Insured, during the Period of Restoration, as a direct result of the necessary "suspension" of operations at Insured Locations. The necessary suspension of operations at the Insured Locations must be a result of loss or damage by a "covered cause of loss", to Property (of the type insurable under this policy), at a direct Dependent Location as specified below.

1. A Dependent Location means a location operated by others that the insured depends upon. Dependent Locations include but is not limited to:
 - a. Contributing locations - these are the Insured's direct suppliers designated on the Schedule of Dependent Locations attached to this policy, that deliver materials or services to the Insured or to others for the account of the Insured. An indirect supplier is not a Contributing location;
 - b. Recipient locations - these are locations designated on the Schedule of Dependent Locations attached to this policy, that receive the Insured's products. An indirect recipient is not a Recipient location;
 - c. Any other Contributing or Recipient Locations not operated by the Insured, wherever located within the United States (including its territories and possessions), Canada, and Puerto Rico and not elsewhere. But in no event shall the Company be liable for loss caused by damage to any such property not specifically named and described herein for any amount in any one occurrence exceeding **\$100,000**.
 - d. Leader locations - these are locations that attract customers to the insured's business;
 - e. Manufacturing or contract service provider locations - these are locations that make products for delivery to the insured's customers under contract of sale; or
 - f. A Location of a company under a royalty, licensing fee or commission agreement with the Insured.

Dependent Locations do not include locations of any company directly or indirectly supplying:

- (1) Water supply services;
- (2) Power supply services; or
- (3) Communication supply services, including services relating to internet access or access to any electronic network.

2. Recovery in the event of loss shall be the actual Gross Earnings loss sustained

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and necessary Extra Expense incurred by the Insured resulting directly from such interruption of business, less charges and expenses which do not necessarily continue during the interruption of business, Due consideration shall be given to the continuation of normal charges and expenses, including payroll expense, to the extent necessary to resume operations of the Insured with the same quality of service which existed immediately preceding the loss.

The Insured will influence and cooperate with the Dependent Location in every way and take any reasonable and necessary action, including the use of other machinery, supplies or locations, to effect mitigation of the loss payable hereunder.

In determining the indemnity payable hereunder, we will consider the amount of income derived before the date of physical loss or damage and the probable amount of income after the date of loss or damage.

The most we will pay in any one occurrence is the amount stated in the Declarations section of this policy.

3. As respects Dependent Locations, the following additional exclusions apply:
 - a. We will not pay for loss or damage directly or indirectly caused by or resulting from the following regardless of any other cause or event, whether or not insured under this policy, contributing concurrently or in any other sequence to the loss:
 - (1) Earthquake; or
 - (2) Flood.
 - b. Coverage does not apply when the only loss to the Dependent Property is loss or damage to "electronic data", including destruction or corruption of "electronic data". If the dependent property sustains loss or damage to "electronic data" and other property, coverage will not continue once the other property is repaired, rebuilt or replaced.

B. Electronic Data - Time Element

We will pay the actual loss sustained by the Insured, during the Period of Restoration, when the Insured's business is "suspended" due to insured direct physical loss or damage resulting in destruction or corruption of the Insured's "electronic data" programs or software at an Insured Location. Insured physical loss or damage does not include physical loss or damage caused by a "computer virus" or the malicious introduction of a harmful code or similar instruction introduced into or enacted on a "computer", computer system (including electronic data) or a network to which it is connected, designed to damage or destroy any part of the "computer" or system or disrupt its normal operation.

1. This coverage will only apply when the Period of Restoration exceeds the time shown as "Waiting Period" in the Waiting Period clause of the Declarations section. If the Waiting Period is exceeded, then this policy will pay for the amount of loss in excess of the applicable deductible, but not more than the limit applying

to this coverage.

2. The most we will pay under this Time Element Coverage Extension is the amount shown in the Declarations for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of locations or computer systems involved. If loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in but not after that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.
3. We do not cover Time Element loss under this coverage that results from:
 - a. Loss of exclusive use of any data records or proprietary programs that have been copied, scanned, or altered; or
 - b. Loss of or reduction in economic or market value of any data records or proprietary programs that have been copied, scanned, or altered.

This Electronic Data Time Element Coverage Extension does not apply to loss sustained or expense incurred after the end of the Period of Restoration, even if the amount of insurance stated in paragraph 2. above has not been exhausted.

C. Extended Period Of Indemnity

This policy extends coverage as provided by Gross Earnings and/or Rental Value to cover the additional length of time as would be required with the exercise of due diligence and dispatch to restore the Insured's business to the condition that would have existed had no loss occurred. This coverage commences:

1. On the date the covered property that incurred the loss (except "finished stock") is rebuilt, repaired or replaced and business is resumed or tenantability is restored; and
2. Ends on the earlier of:
 - a. The date the Insured could restore business, with reasonable speed, to the level which would generate the earnings amount or rents that would have existed had no loss or damage occurred; or
 - b. **30 consecutive days** after the date determined in C.1. above (unless otherwise indicated in the Declarations section of this policy).

D. Ingress/Egress

We will pay the actual Gross Earnings loss sustained by the Insured, resulting from the necessary "suspension" of the Insured's business activities, when existing ingress to or egress from an Insured Location is prevented. The physical prevention of ingress to or egress from an Insured Location must be due to direct physical loss or damage caused

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by a "covered cause of loss", to property of the type insured against by this policy, within one mile of an Insured Location.

As respects Ingress/Egress, the following exclusions are applicable:

This policy does not insure loss resulting from:

1. Lack of incoming or outgoing service consisting of electric, fuel, gas, water, steam, refrigerant, sewerage and voice, data or video.
2. Picketing or other action by strikers except for physical damage not excluded by this policy.

This Coverage Extension provides coverage for a period not to exceed **thirty (30) consecutive days** from the date of the direct physical loss or damage.

This coverage does not apply if ingress to or egress from the Insured Location is prohibited by order of civil or military authority.

E. Interruption By Civil Authority

This policy is extended to cover the actual Gross Earnings loss sustained and Extra Expense incurred while access to an Insured Location is specifically denied by order of civil authority. This order must be a result of direct physical loss of or damage to property, other than at an Insured Location, and must be caused by a "covered cause of loss".

Unless otherwise indicated in the Declarations, this coverage extension is limited to **thirty (30) consecutive days** from the date of the order.

F. Impounded Water

This policy covers the actual Gross Earnings loss sustained and Extra Expense incurred by the Insured during the Period of Restoration, resulting from the necessary "suspension" of the Insured's business activities at an Insured Location if the suspension is caused by the lack of a supply of water from a water supply stored behind dams or in reservoirs on the Insured Location. The water supply must be used as a raw material or for generation of power or for other manufacturing purposes. The inadequate supply of water must result from the release of the water from the water supply and be caused by direct physical damage of the type insured by this policy to the dam, reservoir, or connected equipment.

We will pay the actual loss sustained by the Insured resulting from the lack of adequate water supply from such sources, in excess of the deductible up to the limit applying to this coverage, but not to exceed **thirty (30) consecutive days** after the damaged dam, reservoir or connected equipment has been repaired or replaced, with the exercise of due diligence and dispatch.

G. Off-Premises Service Interruption - Time Element

This policy is extended to cover the actual Gross Earnings loss sustained and Extra Expense incurred by the Insured during the Period of Service Interruption at Insured

Locations when the loss is caused by the interruption of incoming services consisting of electricity, gas, fuel, steam, water, refrigeration, the lack of outgoing sewerage service, or from the lack of communication services including telephone, radio, microwave, or television services such as communication transmission lines, coaxial cables, and microwave radio relays, except satellites.

1. The lack of service must result from direct physical loss or damage of the type insured against under this policy to property at the facilities of the supplier of such service located within this policy's Territory, that immediately prevents in whole or in part the delivery of such usable services;
2. In no event shall any Time Element loss exist (or be adjusted) unless the duration of the interruption of service exceeds twenty-four (24) consecutive hours, or excess of the time shown as Waiting Period in the Waiting Period clause of the Declarations section of this policy;
3. Period of Service Interruption means the period starting with the time when an interruption of specified services occurs; and ending when with due diligence and dispatch the service could be wholly restored and the location receiving the service could or would have resumed normal operations following the restorations of service under the same or equivalent physical and operating conditions as provided by the Period of Restoration clause in this section of the policy.

The Period of Service Interruption is limited to only those hours during which the Insured would or could have used service(s) if it had been available.

The Period of Service Interruption does not extend to include the interruption of operations caused by any reason other than interruption of the specified service(s).

4. Additional General Conditions:
 - a. As soon as practicable, the Insured will notify the suppliers of services of any interruption of such services;
 - b. We will not be liable if the interruption of such services is caused directly or indirectly by the failure of the Insured to comply with the terms and conditions of any contracts the Insured has for the supply of such specified services.

5. Applicable limit:

The most we will pay in any one occurrence under this Coverage Extension is **\$10,000** or the combined amount stated in the Declarations.

Any coverage under this policy for Off-Premises Service Interruption -Time Element does not apply to the Additional Coverage Equipment Breakdown Service Interruption coverage.

H. Research and Development

We will pay, under Gross Earnings, for the fixed charges and expenses (including Payroll) actually incurred by the Insured during the Period of Restoration directly attributable to the interruption of research and development projects that would not have produced income. The loss must result from the necessary "suspension" of business activities at an Insured Location that is caused by direct physical loss or damage caused by a "covered cause of loss" to research and development projects.

We will not pay for any other Time Element loss under this coverage. Loss under this coverage does not include any fixed charges and/or expenses (including Ordinary Payroll) otherwise payable elsewhere in this policy.

The Period of Restoration for this Time Element Extension will be the period from the time of direct physical loss or damage of the type insured by this policy, to the time when the property could be repaired or replaced and made ready for operations, but not to be limited by the date of expiration of this policy.

V. PERIOD OF RESTORATION

A. Period of Restoration for all Time Element coverages, unless otherwise stated, and subject to any Time Limit provided in the Declarations section, means that period of time that:

1. Begins immediately after the time of direct physical loss or damage caused by or resulting from a "covered cause of loss" to property at an Insured Location; and
2. Ends on the earlier of:
 - a. The date when the property at the Insured Location should be repaired, rebuilt, replaced or restored with reasonable speed and similar quality; or
 - b. The date when business is resumed at a new, permanent location.

The expiration of this policy will not limit the Period of Restoration.

B. The Period of Restoration for:

1. Property in the course of construction: The equivalent of the above period of time will be applied to the level of business that reasonably would have been achieved after construction and startup would have been completed had no physical damage happened. Due consideration will be given to the actual experience of the business after completion of the construction and startup.
2. Dependent Locations: Means the time it should reasonably take to resume your business activities starting from the date of direct physical loss of or damage to a dependent location caused by a "covered cause of loss", and ending on the date:
 - a. The property at the dependent location should be rebuilt, repaired, or replaced; or

- b. Business is resumed at a new, permanent location.
- 3. Off Premises Utility Service Interruption: Means the time it should reasonably take to resume your business activities:
 - a. Starting from the date of direct physical loss or damage caused by a "covered cause of loss" to property not located at an Insured Location and that is owned by a utility, a landlord, or another utility supplier; and
 - b. Ending on the date when the utility is restored.
- 4. Impounded water: Means our liability for the actual interruption of production or suspension of operations or services due to inadequate water supply will not extend beyond 30 consecutive days after the damaged dam, reservoir or connected equipment has been repaired or replaced.
- 5. Physically damaged exposed films, records, manuscripts and drawings: The time required to copy from backups or from originals of a previous generation. This time does not include research, or any other time necessary to restore or recreate lost information.
- 6. Physically damaged or destroyed property covered under "electronic data", the time starting when the Insured's data, programs, or software is damaged and ending when with due diligence and dispatch, the Insured's lost or damaged information could be replaced or restored.

The expiration of this policy will not limit the Period of Restoration.

- C. The Period of Restoration does not include any additional time due to the Insured's inability to resume operations for any reason, including but not limited to:
 - 1. Making changes to data, programs, software or equipment.
 - 2. Making changes to the building or structures except as provided in the Demolition and Increased Cost of Construction Coverages in the Property Damage section of this policy.
 - 3. Re-staffing or retraining employees.

VI. TIME ELEMENT EXCLUSIONS

In addition to the exclusions elsewhere in this policy, the following exclusions apply to Time Element loss:

This policy does not insure against:

- A. Any loss during any idle period, including but not limited to when production, operations, service or delivery or receipt of goods would cease, or would not have taken place or would have been prevented due to:

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1. Physical loss or damage not insured by this policy on or off of the Insured Location.
 2. Planned or rescheduled shutdown.
 3. Strikes or other work stoppage.
 4. Any other reason other than physical loss or damage insured by this policy.
- B. Any increase in Time Element loss due to:
1. Suspension, cancellation or lapse of any lease, contract, license or orders. But if the suspension, cancellation or lapse is directly caused by the "suspension" of business, then we will cover such loss as affects your Gross Earnings during, and limited to, the period of indemnity covered under this policy.
 2. Fines or damages for breach of contract or for late or non-completion of orders.
 3. Penalties of any nature.
 4. Any other consequential or remote loss.
- C. Any loss resulting from loss or damage to "finished stock" manufactured by the Insured, nor the time required for their reproduction.
- D. Any Time Element loss resulting from transit.

VII. TIME ELEMENT INTERDEPENDENCY

If there is a loss at an Insured Location that involves interdependency at one or more other Insured Locations, the loss, including any resulting interdependency loss, will be adjusted based on the Time Element Coverage that applies at the Insured Location where the direct physical loss or damage insured by this policy occurred.

SECTION D - GENERAL POLICY CONDITIONS

I. CANCELLATION AND NON-RENEWAL

- A. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- B. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - 1. Ten (10) days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - 2. Sixty (60) days before the effective date of cancellation if we cancel for any other reason.
- C. This policy may be non-renewed by us by giving the Insured not less than sixty (60) days written notice of non-renewal.
- D. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- E. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- F. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
- G. If notice is mailed, proof of mailing will be sufficient proof of notice.

If under the laws of the jurisdiction in which the property is located such cancellation or non-renewal terms or conditions are different, then cancellation terms or conditions will be as permitted by such laws.

II. CONCEALMENT, MISREPRESENTATION OR FRAUD

This policy is void as to all Insureds in any case of fraud by any Insured as it relates to this policy at any time. It is also void if any Insured, at any time, intentionally conceals or misrepresents a material fact concerning:

- A. This Policy;
- B. The Covered Property;
- C. The Insured's interest in the Covered Property; or

D. A claim under this Policy

III. CONTROL OF PROPERTY

Any act or neglect of any person other than you beyond your direction or control will not affect this insurance.

The breach of any condition of this policy at any one or more locations will not affect coverage at any location where, at the time of loss or damage, the breach of condition does not exist.

IV. CONTROL OF DAMAGED GOODS

In the event of insured direct physical loss of or damage to "finished stock"; this policy gives control of the physically damaged property as follows, all subject to paragraph D. of this clause:

- A. The insured will have full rights to the possession and control of damaged property in the event of insured direct physical loss or damage to such property provided we agree that the property is physically damaged.
- B. The Insured using reasonable judgment will decide if the physically damaged property can be reprocessed or sold.
- C. Property so judged by the Insured to be unfit for reprocessing or selling will not be sold or disposed of except by the Insured, or with the Insured's consent.
- D. The salvage value of property that is claimed damaged shall be determined at the time of loss. The Insured will allow us to deduct from the amount of loss otherwise payable, the fair market value of such salvage, which could have been obtained on any sale or other disposition of goods or products through normal insurance industry salvage practices.

V. ENVIRONMENTAL, SAFETY AND EFFICIENCY IMPROVEMENTS

If "covered equipment" requires replacement due to an "accident," we will pay your additional cost to replace with equipment that is better for the environment, safer or more efficient than the equipment being replaced.

However, we will not pay more than 125% of what the cost would have been to replace with like kind and quality. This condition does not increase any of the applicable limits.

This condition does not apply to any property to which Actual Cash Value applies.

VI. INSPECTIONS AND SURVEYS

- A. We have the right but not the obligation to make inspections and surveys at any time, to give the Insured reports on the conditions found, and to recommend changes.
- B. Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public, nor do we represent that conditions are safe, healthful, or comply with laws, regulations, codes or standards.

Paragraph **B.** of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

VII. JURISDICTION

This policy will be governed by United States of America Law. Any disputes arising hereunder will be exclusively subject to United States of America jurisdiction.

VIII. JURISDICTIONAL INSPECTIONS

If any property that is "covered equipment" under this policy requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf. We do not warrant that conditions are safe or healthful.

IX. LIBERALIZATION

If we adopt any revision that would broaden the coverage under this policy without additional premium within 45 days prior to or during the policy period, the extended or broadened insurance will inure to the benefit of the Insured within such jurisdiction, effective the date of the change specified in such statute.

X. LOSS ADJUSTMENT/PAYABLE

Loss, if any, will be adjusted with and payable to the First Named Insured as shown in the Declarations or as may be directed by the First Named Insured. Additional insured interests will also be included in loss payment as their interests may appear when named as additional named insured, lender, mortgagee and/or loss payee in this policy.

XI. LOSS CONDITIONS

A. Duties In The Event Of Loss Or Damage

The Insured must see that the following are done in the event of direct physical loss or damage to Covered Property:

1. Give immediate written notice to us of any loss;
2. Protect the property from further loss or damage;
3. Promptly separate the damaged and undamaged property; put it in the best possible order; and furnish a complete inventory of the lost, destroyed, damaged and undamaged property showing in detail the quantities, costs, actual cash value, replacement value and amount of loss claimed;
4. Give a signed and sworn proof of loss to us within 90 days after the loss, unless that time is extended in writing by us. The proof of loss must state the knowledge and belief of the Insured as to:
 - a. The time and origin of the loss;
 - b. The Insured's interest and that of all others in the property;
 - c. The actual cash value and replacement value of each item and the amount of loss to each item; all encumbrances; and all other contracts of insurance, whether valid or not, covering any of the property;
 - d. Any changes in the title, use, occupation, location, possession or exposures of the property since the effective date of this policy.
 - e. By whom and for what purpose any location insured by this policy was occupied on the date of loss, and whether or not it then stood on leased ground.
5. Include a copy of all the descriptions and schedules in all policies and, if required, provide verified plans and specifications of any buildings, fixtures, machinery or equipment destroyed or damaged;
6. Further, the Insured, will as often as may be reasonably required:
 - a. Exhibit to any person designated by us all that remains of any property;
 - b. Submit to examination under oath by any person designated by us and sign the written records of examinations; and
 - c. Produce for examination at the request of us:

(1) All books of accounts, business records, bills, invoices and other vouchers; or

(2) Certified copies if originals are lost,

at such reasonable times and places that may be designated by us or our representative and permit extracts and machine copies to be made.

B. Abandonment

There may be no abandonment of any property to us.

C. Subrogation

The Insured is required to cooperate in any subrogation proceedings. To the extent of our payment, the Insured's rights of recovery against any party are transferred to us. We are allowed to pursue suits in the name of the Insured.

We acquire no rights of recovery that the Insured has expressly waived prior to a loss, nor will such waiver affect the Insured's rights under this policy.

Any recovery from subrogation proceedings, less costs incurred by us in such proceedings, will be payable to the Insured in the proportion that the amount of any applicable deductible and/or any provable uninsured loss, bears to the entire provable loss amount.

D. Appraisal

If the Insured and us fail to agree on the value of the property or the amount of loss, each will, on the written demand of either, select a competent, disinterested, and impartial appraiser, who has no direct or indirect financial interest in the claim. Each will notify the other of the appraiser selected within 20 days of such demand. The Insured may not invoke appraisal unless it has first fully complied with all provisions of this policy, including Duties In The Event Of Loss or Damage and has provided us with a signed and sworn statement of loss.

The appraisers will first select a competent, disinterested and impartial umpire. If the appraisers fail to agree upon an umpire within 15 days then, on the request of the Insured or us, a judge of a court of record in the jurisdiction in which the appraisal is pending will select the umpire. The appraisers will then appraise the value of the property or the amount of loss. They will state separately, the actual cash value and replacement cost value, as of the date of loss and the amount of loss, each item of physical loss or damage or, if for "Time Element" loss, the amount of loss for each Time Element Coverage of this policy.

If the appraisers fail to agree, they will submit their differences to the umpire. An award stating separately the actual cash value and replacement cost value, as of the date of loss and the amount of loss for each item of physical loss or damage or, if for "Time

Element" loss, the amount of loss for each Time Element Coverage of this policy agreed to in writing by any two will determine the amount of loss.

Once there is an award, we retain the right to apply all policy terms and conditions (including but not limited to deductibles, exclusions, and Limits of Liability) to the award. We further retain the right to deny the claim in whole or in part.

The Insured and us will each pay its chosen appraiser and bear equally the other expenses of the appraisal and umpire.

E. Suit Against the Company

No suit, action or proceeding for the recovery of any claim will be sustained in any court of law or equity unless the Insured has fully complied with all the provisions of this policy. Legal action must be started within (12) twelve months after the date of direct physical loss or damage to Covered Property or to other property as set forth herein.

XII. MORTGAGE PROVISIONS

If a mortgagee (mortgage holder) is named in this policy, loss to building property will be paid to the mortgagee and you as their interest appear. If more than one mortgagee is named, they will be paid in order of precedence.

The insurance for the mortgagee continues in effect even when your insurance may be void because of your acts, neglect, or failure to comply with the coverage terms. The insurance for the mortgagee does not continue in effect if the mortgagee is aware of changes in ownership or substantial increase in risk and does not notify us.

If we cancel this policy, we will notify the mortgagee at least ten days before the effective date of cancellation if we cancel for your nonpayment of premium, or 30 days before the effective date of cancellation if we cancel for any other reason.

We may request payment of the premium from the mortgagee if you fail to pay the premium.

If we pay the mortgagee for a loss where your insurance may be void, the mortgagee's right to collect that portion of the mortgage debt from you then belongs to us. This does not affect the mortgagee's right to collect the remainder of the mortgage debt from you.

As an alternative, we may pay the mortgagee the remaining principal and accrued interest in return for a full assignment of the mortgagee's interest and any instruments given as security for the mortgage debt.

If we choose not to renew this policy, we will give written notice to the mortgagee at least ten days before the expiration date of this policy.

XIII. REDUCTION BY LOSS

Loss or damage shall not reduce the amount of insurance recoverable, except where an "annual aggregate" applies. The reinstatement of any exhausted "annual aggregate" is not permitted unless authorized by us in writing.

XIV. OTHER INSURANCE

We will not be liable if, at the time of loss or damage, there is any other insurance that would attach in absence of this insurance; except that this insurance shall apply only as excess and in no event as contributing insurance, and then only after all other insurance has been exhausted.

This provision shall not apply if this policy is written in coordination with other insurance that is intended to pay proportionally with this insurance as part of a property insurance plan or program expressly written with other participants subject to the same terms, conditions and provisions as those in this policy.

We give the Insured permission to purchase insurance for all or any part of the deductibles in this policy, and the existence of underlying insurance shall not prejudice the Insured's rights under this policy. If the limits of underlying insurance exceed the deductible that would apply, then the insurance provided by this policy shall apply only as excess after that portion which exceeds the deductible has been exhausted.

The Insured can purchase excess insurance commencing on or after the inception of this policy that is specifically excess over the limits of insurance set forth in this policy without prejudice to this policy and the existence of such insurance shall not reduce any liability under this policy.

XV. POLICY MODIFICATION

This policy contains all of the agreements between the Insured and us concerning this insurance. The Insured and the Company may request changes to this policy. Only endorsements issued by the Company and made a part of this policy can change this policy.

XVI. SETTLEMENT OF CLAIMS

The amount of loss, except for Accounts Receivable coverage, for which we may be liable, will be paid within 30 days after:

- A. Proof of loss as described in this policy is received by us; and
- B. When a resolution of the amount of loss is made either by:
 - 1. Written agreement between the Insured and us; or
 - 2. An appraisal award has been made.

XVII. SUSPENDED PROPERTY

When Covered Property is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend this insurance for that property. This can be done by delivering or mailing a written notice to the First Named Insured's mailing address or to the address where the Covered Property is located. Once suspended, this insurance can be reinstated only by an endorsement. Any unearned premium due will be returned by us. But, suspension will be effective even if we have not yet made or offered a refund.

XVIII. TITLES OF PARAGRAPHS

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

XIX. TRANSFER OF RIGHTS AND DUTIES

The Insured's rights and duties under this policy may not be transferred without our written consent.

XX. VACANCY - UNOCCUPANCY

The Insured has permission to cease operations or remain vacant or unoccupied provided fire protection, watch and alarm services are maintained, and written notice is given to us prior to the one hundred twentieth (120th) consecutive day of cessation of operation, vacancy or unoccupancy. The Insured's building is considered vacant or unoccupied when it does not contain enough Covered Property to conduct customary business operations.

XXI. VALUATION

In the event of any claim for direct physical loss of or damage to Covered Property adjustment of the physical loss amount under this policy will be computed as of the date of loss at the location of the loss, and for no more than the interest of the insured, subject to the following:

- A. The basis of adjustment is on a replacement cost basis unless a specific valuation applies. Replacement cost shall be the cost to repair, rebuild or replace the damaged property (without deduction for depreciation) with materials of like kind, quality and capacity at the same or another site, but no more than the lesser of:
 - 1. The cost to repair;
 - 2. The cost to rebuild or replace on the same site with new materials of like size, kind and quality;

3. The cost in rebuilding, repairing or replacing on the same or another site, but not to exceed the size and operating capacity that existed on the date of loss; or
4. The limit of Insurance applicable to the lost or damaged property.

If there is direct physical loss of or damage to Covered Property which is not repaired, rebuilt or replaced within two (2) years from the date of direct physical loss or damage, we will not be liable for more than the actual cash value of the property destroyed.

B. The following property shall be valued as specified below:

1. For "stock-in-process", the value of raw materials and labor expended plus the proper proportion of overhead charges.
2. For "finished stock" manufactured by the Insured, the regular cash selling price at the location where the loss happens, less all discounts and charges to which the finished goods would have been subject had no loss happened.
3. For "raw materials", supplies and other "merchandise" not manufactured by the Insured:
 - a. If repaired or replaced, the actual expenditure incurred in repairing or replacing the damaged or destroyed property; or
 - b. If not repaired or replaced, the actual cash value.
4. For exposed films, records, manuscripts and drawings, that are not Valuable Papers and Records, the blank value plus the cost of copying information from back-up or from originals of a previous generation. These costs will not include research, engineering or any costs of restoring or recreating lost information.
5. For property covered under Electronic Data;
 - a. The cost to repair, replace or restore data, programs or software including the costs to recreate and research, provided that if the insured attempts but is unable to recreate or restore the lost information, then the reasonable and necessary costs incurred to make the determination that the lost information cannot be recreated or restored;
 - b. If not repaired, replaced or restored within two years from the date of loss, the blank value of the media.
6. For property covered under Deferred Payments, the lesser of the:
 - a. Total amount of unpaid installments less finance charges;
 - b. Actual cash value of the property at the time of loss;
 - c. Cost to repair or replace with material of like size, kind and quality.

7. For Fine Arts articles, the lesser of:
- a. The reasonable and necessary cost to repair or restore such property to the physical condition that existed on the date of loss;
 - b. The cost to replace the article with substantially identical property;
 - c. The value, if any stated on a schedule on file with the Company.

If the Fine Arts article cannot be replaced and an appraisal is not available, the valuation shall be market value based on prevailing conditions at the time of loss or damage.

8. For Property in Transit:
- a. Property shipped to or for the account of the insured will be valued at actual invoice to the Insured. Included in the value are accrued costs and charges legally due. Charges may include the Insured's commission as selling agent;
 - b. Property sold by the insured and shipped to or for the purchaser's account will be valued at the Insured's selling invoice amount. Prepaid or advanced freight costs are included;
 - c. Property not under invoice will be valued:
 - (1) For property of the insured, at the valuation provisions of this policy applying at the location from which the property is being transported; or
 - (2) For other property, at the actual cash market value at the destination point on the date of occurrence,

Less any charges saved which would have become due and payable upon arrival at destination.

9. The selling price of real property or machinery and equipment, other than stock, offered for sale on the date of loss.
10. The cost to replace un-repairable electrical or mechanical equipment, including computer equipment, with equipment that is the most functionally equivalent to that damaged or destroyed, even if such equipment has technological advantages, represents an improvement in function, or forms part of a program of system enhancement.

11. Improvements and Betterments:

- a.** If repaired or replaced at the expense of the Insured within a reasonable time after such loss, the actual cash value of the damaged Improvements and Betterments;
- b.** If not repaired or replaced within a reasonable time after such loss, that proportion of the original cost at time of installation of the damaged Improvements and Betterments which the unexpired term of the lease at the time of loss bears to the period(s) from the date(s) such Improvements and Betterments were made to the expiration date of the lease;
- c.** If repaired or replaced at the expense of others for the use of the Insured; there shall be no liability hereunder.

12. For property that is useless to the Insured or obsolete, the actual cash value.

The Insured may elect not to repair or replace the damaged Covered Property, however, if loss settlement proceeds are expended on other capital expenditures related to the business activities of the Insured within two years from the date of loss, the lesser of the repair or replacement cost of such property will be paid. As a condition of collecting under this clause, such expenditure must be unplanned as of the date of loss and be made at an Insured Location under this policy. This clause does not extend to Demolition and Increased Cost of Construction.

The term Actual Cash Value, wherever used in this policy, means the amount it would cost to repair or replace covered property, on the date of loss, with material of like kind and quality, with proper deduction for obsolescence and physical depreciation.

SECTION E - DEFINITIONS

These definitions relate solely to Section B. III. Additional Coverages, B.11. Equipment Breakdown:

1. **"Accident"** - a fortuitous event that causes direct physical damage to "covered equipment". The event must be one of the following:
 - a. Mechanical breakdown, including rupture or bursting caused by centrifugal force;
 - b. Artificially generated electrical current, including electric arcing, that disturbs electrical devices, appliances or wires;
 - c. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control;
 - d. Loss or damage to steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment; or
 - e. Loss or damage to hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment.

2. **"Average Daily Value"** - if a deductible is expressed as a number times ADV (Average Daily Value), that amount will be calculated as follows:

The ADV will be the Gross Earnings (as defined in any Time Element coverage that is part of this policy) that would have been earned during the period of interruption of business had no "accident" occurred, divided by the number of working days in that period.

No reduction shall be made for the Gross Earnings not being earned, or in the number of working days, because of the "accident" or any other scheduled or unscheduled shutdowns during the period of interruption. The ADV applies to the Gross Earnings value of the entire location, whether or not the loss affects the entire location. If more than one location is included in the valuation of the loss, the ADV will be the combined value of all affected locations. For purposes of this calculation, the period of interruption may not extend beyond the Period of Restoration.

The number indicated in the Declaration will be multiplied by the ADV as determined above. The result shall be used as the applicable deductible.

3. **"Boilers and Vessels"**:
 - a. Any boiler, including attached steam, condensate and feedwater piping; and
 - b. Any fired or unfired pressure vessel subject to vacuum or internal pressure other than the static pressure of its contents.

This term does not appear elsewhere in this policy, but may appear in the Declarations.

4. **“Covered Equipment”** - unless otherwise specified in the Declarations, covered property:
- a. That generates, transmits or utilizes energy, including electronic communications and data processing equipment; or
 - b. Which, during normal usage, operates under vacuum or pressure, other than the weight of its contents.

None of the following is “covered equipment”:

- a. Structure, foundation, cabinet, compartment;
 - b. Insulating or refractory material;
 - c. Sewer piping, buried vessels or piping, or piping forming a part of a sprinkler or fire suppression system;
 - d. Water piping other than boiler feedwater piping, boiler condensate return piping or water piping forming a part of a refrigerating or air conditioning system;
 - e. “Vehicle” or any equipment mounted on a “vehicle”;
 - f. Satellite, spacecraft or any equipment mounted on a satellite or spacecraft;
 - g. Dragline, excavation or construction equipment; or
 - h. Equipment manufactured by you for sale.
5. **“Hazardous Substance”** - any substance that is hazardous to health or has been declared to be hazardous to health by a governmental agency.
6. **“Production Machinery”** - any machine or apparatus that processes or produces a product intended for eventual sale. However, “production machinery” does not mean any fired or unfired pressure vessel other than a cylinder containing a moveable plunger or piston.

This term does not appear elsewhere in this policy, but may appear in the Declarations.

The following terms wherever used in this policy shall mean:

7. **“Annual Aggregate”** - the maximum amount of loss or damage payable in any one (1) policy year regardless of the number of occurrences within the same policy year.
8. **“Computer Virus”** - a virus or malicious self-replicating harmful code or similar instruction introduced into or enacted on a “computer” (including electronic data) or a network to which it is connects, designed to damage or destroy any part of the system or disrupt its normal operation. But it does not mean loss or damage caused by or resulting from manipulation of a computer system (including electronic data) by any employee,

including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, modify, maintain, repair, or replace your "computers".

9. "Computers":

- a. Your programmable electronic equipment that is used to receive, process, store, retrieve or send "electronic data". It includes their component parts and air conditioning, fire suppression equipment and electrical equipment used exclusively in your "computer" operations; and
- b. Associated peripheral equipment that provides communication including input and output functions such as printing or auxiliary functions such as data transmission.
- c. As respects only to Additional Coverage Equipment Breakdown, "Computers" does not include those used to control or operate machinery or equipment.

It does not include "electronic data" and "media".

10. **"Contaminant"** - Any foreign substance, impurity, chemical, "pollutant", hazardous material, poison, toxin, pathogen or pathogenic organism, except "fungus" wet rot or dry rot.
11. **"Contamination"** - any condition of property due to the actual presence of any foreign substance, impurity, chemical, "pollutant", hazardous material, poison, toxin, pathogen or pathogenic organism, except "fungus" wet rot or dry rot.
12. **"Covered Cause of Loss"** - all risks of direct physical loss of or damage from any cause unless excluded.
13. **"Electronic Data"** - 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 "electronic data".
14. **"Fine Arts"** - includes, but is not limited to, bona fide works of art, works of rarity, works of historical values, works of artistic merit, photographs, lithographs, illustrations, gallery proofs, art glass windows, tapestries and similar property.
15. **"Finished Stock"** - stock manufactured by the Insured which in the ordinary course of the Insured's business is ready for packing, shipment or sale.
16. **"Fungus"** - any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
17. **"Limit"** - the amount of coverage that applies.

18. **"Media"** - material on which "electronic data" is recorded, such as magnetic tapes, hard disks, optical disks or floppy disks.
19. **"Merchandise"** - goods kept for sale by the Insured which are not raw stock, stock in process or finished stock.
20. **"Mobile Equipment"**:
 - a. Contractors' equipment and similar items of a mobile nature;
 - b. Unlicensed vehicles which are not operated on public roadways; however, are built for public roadway use; and
 - c. Self-propelled vehicles built and utilized for carrying equipment attached to them.
21. **"Normal"** - the condition that would have existed had no loss occurred.
22. **"Ordinary Payroll Expense"** means the entire payroll expense for all employees of the Insured, except officers, executives, department managers and employees under contract.
23. **"Perishable Goods"** - personal property maintained under controlled conditions for its preservation, and susceptible to loss or damage if the controlled conditions change.
24. **"Perishable Stock"** - personal property preserved and maintained under controlled conditions and susceptible to loss or damage if the controlled conditions change.
25. **"Pollutants"** - any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
26. **"Property in the Course of Construction"** means covered property at an Insured Location which is in the course of construction, installation, erection, start-up, commissioning, reconstruction, repairs, demolition, alteration, renovation and the like.
27. **"Raw Materials"** - material in the state in which the Insured receives it for conversion by the Insured into stock in process or finished stock.
28. **"Special Flood Hazard Area" (SFHA)** - an area having special flood, mudflow, or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map as Zone A, AO, A1 - A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1 - A30, V1-V30, VE, or V.
29. **"Specified Causes of Loss"**: fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.
30. **"Specified Perils"** - fire, lightning, explosion, riot or civil commotion, aircraft, or smoke.
31. **"Spoilage"** - any detrimental change in physical state of "perishable stock". Detrimental change includes, but is not limited to, thawing of frozen goods, warming of refrigerated

goods, solidification of liquid or molten material, chemical reactions to material in process, and reduction in value of time sensitive materials.

32. **"Stock"** - merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.
33. **"Stock-in-Process"** - raw stock which has undergone any aging, seasoning, mechanical or other process of manufacture at the described premises but which has not become finished stock.
34. **"Suspension":**
 - a. The slowdown or cessation of the Insured's business activities; or
 - b. As respects rental income that a part or all of the Insured Location is rendered untenable.
35. **"Time Element"** - a general term referring to those coverages that protect against indirect losses resulting from damage to described property, where the amount of such losses depends upon the length of time over which such losses accumulate.
36. **"Vehicle"** - as respects the Equipment Breakdown Additional Coverage only, any machine or apparatus that is used for transportation or moves under its own power. "Vehicle" includes, but is not limited to, car, truck, bus, trailer, train, aircraft, watercraft, forklift, bulldozer, tractor or harvester.

However, any property that is stationary, permanently installed at an Insured Location and that receives electrical power from an external power source will not be considered a "vehicle".

Named Insured: Hakkasan USA, Inc.
Endorsement
Effective Date: April 01, 2019

Policy Number: ARL30001017500

Endorsement
Number: N/A

Specialty Clause Endorsement

This policy is extended to cover the following:

Downzoning

In the event of direct physical loss, damage or destruction insured under this policy that causes the enforcement of any law, ordinance, governmental directive or standard regulating the construction, repair, use or occupancy of property, this policy also insures the additional business interruption and/or rental value loss resulting from the inability to rebuild existing property to like kind and quality, height, area, and/or occupancy. Such loss shall be measured for the length of time as would have been required with the exercise of due diligence and dispatch to rebuild or replace such existing property plus the unexpired term of the lease, but not to exceed two (2) years of the unexpired term of the lease.

Special Time Element – Cancellation Coverage

Notwithstanding that Time Element loss insured under this Policy must be caused by or result from loss, damage or destruction not otherwise excluded, this Policy is extended to insure the actual loss sustained by the Insured resulting from the cancellation of, and/or inability to accept bookings or reservations for accommodation, receive admissions, and/or interference with the business at any insured location all as a direct result of the "Occurrence" of:

- i. murder, suicide, rape or other violent crime;
- ii. contagious or infectious disease (including decontamination and clean up costs);
- iii. food or drink poisoning;
- iv. any of the following that occur within a radius of five (5) miles of an insured location, to the extent such Time Element loss is not otherwise insured elsewhere in this policy;
 - (a) outbreak of a contagious and/or infectious disease
 - (b) outbreak of riot or civil commotion
 - (c) occurrence of fire, or explosion, or windstorm, or "Flood", or "Earthquake"
 - (d) closure of a seaport or airport

- v. closing of the whole or part of the premises of the Insured either by the Insured or by order of a Public Authority consequent upon the existence or threat of hazardous conditions either actual or suspected at an insured location;
- vi. the pollution by oil, chemical or other substance of any beach, waterway or river within a radius of 5 miles of an insured location as a result of loss, damage or destruction not otherwise excluded;
- vii. a mandatory evacuation at an insured location due to the type of situation referred to in this clause: a compulsory notification of an evacuation of an insured location or portion thereof with an effective date and time ordered by either the Insured or by a responsible civil or military authority. Such mandatory evacuation must be initiated during the term of this insurance.

For purposes of measurement of the Time Element loss with regards to this condition, the Period of Liability shall commence 48 hours before the mandatory evacuation notification is given by the Insured or by a responsible civil or military authority.

The length of time for which loss may be claimed shall not exceed such length of time as would be required with the exercise of due diligence and dispatch to restore the Insured's business to the condition that would have existed had no loss occurred and shall include the time required to make the premises conform to the order of a competent public authority, beginning with the interruption or interference with the business.

Coverage provided under Special Time Element – Cancellation Coverage shall not conflict or reduce coverage provided elsewhere in this policy, most notably Contingent Time Element, Interruption by Civil or Military Authority, or Loss of Ingress or Egress.

Tenant Move Back Costs

Expenses incurred by the Insured to pay for 'covered move back costs' of tenants who temporarily vacate a "location" insured hereunder, when the "location" is untenable due to physical loss, damage or destruction by a peril insured by this Policy.

Covered move back costs means documented, reasonable and necessary costs of packing (including insuring and carting) tenants' property; costs of reestablishing utility services; costs of assembling and setting up tenants' property at the location of loss, and costs to unpack and reshelve stock and supplies. Covered move back expenses do not include, however, loss caused by the termination of a lease or other agreement, nor security deposits or other payments, forfeitures or penalties made to the landlord or lessor of other quarters used by the tenants.

Lost Key Consequential Damage

The actual cost of keys, the cost of adjusting locks to accept new keys or the cost of new locks, if required, of like kind and quality, including the cost of their installation when a master or grand master key is lost, damaged or destroyed by a peril insured by this Policy.

The coverages stated above are subject to the sublimits of liability as shown in Paragraph F. **OTHER SUBLIMITS FOR LOSS ARISING OUT OF ONE OCCURRENCE** in the Declarations section of the policy and is subject to the Policy provisions, including applicable exclusions and deductibles, all as shown in this section and elsewhere in this Policy

MINIMUM EARNED PREMIUM CLAUSE

THIS ENDORSEMENT CHANGES THIS POLICY. PLEASE READ IT CAREFULLY.

In the event of cancellation of this policy by the insured, a minimum earned premium of 25% of the annual premium shall become payable by the insured; any conditions of the policy to contrary notwithstanding. Failure of the insured to make timely payment of premium shall be considered a request by the insured for the company to cancel. In the event of such cancellation by the company for non-payment of premium, the minimum premium shall be due and payable; provided, however, such non-payment cancellation shall be rescinded if the insured remits the full premium due within 10 days of receiving the cancellation notice.

All other terms and conditions of this policy shall remain unchanged.

Notice of Loss

Notwithstanding any provision to the contrary within this insurance policy, any endorsement thereto, or any policy to which this policy may follow form, the insured shall as soon as practical report in writing, to:

Commercial Property - Claims
1221 Avenue of the Americas
New York, NY 10020
E-Mail addressed to: insuranceclaims@sompo-intl.com

every loss, damage or occurrence which may give rise to a claim under this policy and also file with the Company within ninety (90) days from the date of such loss, damage or occurrence, a detailed sworn proof of loss.

SERVICE OF SUIT ENDORSEMENT

THIS ENDORSEMENT CHANGES THIS POLICY. PLEASE READ IT CAREFULLY.

In the event of failure of the Insurer to pay any amount claimed to be due under the terms of this policy, the Insurer, 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 Insurer'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. In any suit instituted against the Insurer upon this policy, the Insurer will abide by the final decision of such court or of any appellate court in the event of appeal.

It is further agreed that service of process in such suit may be made upon the Senior Vice President - Claims, 1221 Avenue of the Americas New York, NY 10020

Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefore, the Insurer designates the Superintendent, Commissioner or Director of Insurance, or other officer specified for that purpose in the statute, as its true and lawful attorney upon whom service may be made of 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 Senior Vice President - Claims as the person to whom the said officer is authorized to mail such process or a true copy thereof.

All other terms and conditions of this policy shall remain unchanged.

ENDORSEMENT

Named Insured: Hakkasan USA, Inc.

Policy Number: ARL30001017500

Endorsement

Endorsement

Effective Date: April 01, 2019

Number: N/A

12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations.

DISCLOSURE PURSUANT TO THE TERRORISM RISK INSURANCE ACT

THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.

It is agreed that:

SCHEDULE: Terrorism Premium (Certified Acts):

A. Disclosure of Premium

In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium (shown in the Schedule above), if any, attributable to coverage for terrorist acts certified under the Terrorism Risk Insurance Act as amended and reauthorized. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement.

B. Disclosure of Federal Participation in Payment of Terrorism Losses

The United States government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals 85% in 2015 and decreases its share 1% each calendar year to a total of 80% in 2020 of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year, the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

C. Cap On Insurer Participation In Payment Of Terrorism Losses

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

ENDORSEMENT

A handwritten signature in black ink, appearing to be "M. J. [unclear]", written over a horizontal line.

Authorized Representative

This endorsement does not change any other provision of the Policy. The title and any headings in this endorsement are solely for convenience and do not affect its meaning.

Notice includes copyrighted material of Insurance Services Office, Inc. with its permission.

ENDORSEMENT

Named Insured: Hakkasan USA, Inc.

Policy Number: ARL30001017500

Endorsement

Endorsement

Effective Date: April 01, 2019

Number: N/A

12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations.

CERTIFIED TERRORISM LOSS COVERAGE NON-CERTIFIED ACTS OF TERRORISM AND NUCLEAR, BIOLOGICAL AND CHEMICAL CERTIFIED ACTS OF TERRORISM EXCLUSION

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.

It is agreed that:

1. Definitions

1. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:
 - a. The act resulted in insured losses in excess of \$ 5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
 - b. The act resulted in damage:
 - a. Within the United States (including its territories and possessions and Puerto Rico); or
 - b. Outside of the United States in the case of:
 - i. An air carrier (as defined in Section 40102 of title 49, United States Code) or United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; or
 - ii. The premises of any United States mission; and
 - c. the act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
2. "Non-certified act of terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not a "certified act of terrorism".

3. "Non-certified terrorism loss" means any loss that results from a "non-certified act of terrorism".
4. For purposes of this endorsement, "any injury or damage" means any injury or damage covered under this policy to which this endorsement is applicable, and includes but is not limited to any loss, claim, cost, expense or damage.

2. Cap on Losses; Certified Terrorism Act Loss Coverage

1. If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and the insurer has met its deductible under the Terrorism Risk Insurance Act, the insurer shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.
2. The terms of any terrorism exclusion in this policy, other than the Nuclear, Biological, Chemical and Radiological Certified Act Exclusion, are amended to include the following provision:

This exclusion does not apply to a "certified act of terrorism".

3. Non-Certified Terrorism Act Exclusion

1. This policy will not pay for loss or "any injury or damage" arising directly or indirectly, out of a "non-certified act of terrorism", including any action in hindering or defending against an actual or expected "non-certified act of terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss, or "any injury or damage".
2. The foregoing non-certified act of terrorism exclusion does not apply to any loss or "any injury or damage" that results from an act that is not certified by Secretary of the Treasury to be an act of terrorism solely because the property and casualty insurance losses resulting from that act do not exceed \$5,000,000.

D. Nuclear, Biological, Chemical and Radiological Certified Act Exclusion

This policy will not pay for loss or "any injury or damage" arising directly or indirectly, out of a "certified act of terrorism":

1. That involves the threat or actual use, release or escape of nuclear or radioactive materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination;
2. That is carried out by means of the actual or threatened dispersal or application of pathogenic or poisonous biological or chemical materials; or
3. In which pathogenic or poisonous biological or chemical materials are released, and it appears that the purpose was to release such materials.

Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss, or "any injury or damage".

E. Other Provisions

The following provisions are added to the policy:

In the event of any incident of a "non-certified terrorism loss" that is not subject to the non-certified act of terrorism exclusion, coverage does not apply to loss, or "any injury or damage" that is otherwise excluded under this policy.

This endorsement does not provide coverage for any loss that would otherwise be excluded by this policy under:

1. Exclusions that address war, military action or nuclear hazard; or a
2. Any other exclusion.

This endorsement does not change any other provision of this policy.



Authorized Representative

This endorsement does not change any other provision of the Policy. The title and any headings in this endorsement are solely for convenience and do not affect its meaning.

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

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

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

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

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

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

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



**SOMPO
INTERNATIONAL**

**Endurance American Specialty Insurance Company
1221 Avenue of the Americas
New York, NY 10020**

IN WITNESS WHEREOF, the Insurer has caused this Policy to be signed by its President and Senior Vice President and countersigned where required by law on the Declarations page by its duly authorized representative.

Senior Vice President

President

Named Insured: Hakkasan USA, Inc.
Endorsement
Effective Date: April 01, 2019

Policy Number: ARL30001017500

Endorsement
Number: N/A

Specialty Clause Endorsement

This policy is extended to cover the following:

Downzoning

In the event of direct physical loss, damage or destruction insured under this policy that causes the enforcement of any law, ordinance, governmental directive or standard regulating the construction, repair, use or occupancy of property, this policy also insures the additional business interruption and/or rental value loss resulting from the inability to rebuild existing property to like kind and quality, height, area, and/or occupancy. Such loss shall be measured for the length of time as would have been required with the exercise of due diligence and dispatch to rebuild or replace such existing property plus the unexpired term of the lease, but not to exceed two (2) years of the unexpired term of the lease.

Special Time Element – Cancellation Coverage

Notwithstanding that Time Element loss insured under this Policy must be caused by or result from loss, damage or destruction not otherwise excluded, this Policy is extended to insure the actual loss sustained by the Insured resulting from the cancellation of, and/or inability to accept bookings or reservations for accommodation, receive admissions, and/or interference with the business at any insured location all as a direct result of the "Occurrence" of:

- i. murder, suicide, rape or other violent crime;
- ii. contagious or infectious disease (including decontamination and clean up costs);
- iii. food or drink poisoning;
- iv. any of the following that occur within a radius of five (5) miles of an insured location, to the extent such Time Element loss is not otherwise insured elsewhere in this policy;
 - (a) outbreak of a contagious and/or infectious disease
 - (b) outbreak of riot or civil commotion
 - (c) occurrence of fire, or explosion, or windstorm, or "Flood", or "Earthquake"
 - (d) closure of a seaport or airport

- v. closing of the whole or part of the premises of the Insured either by the Insured or by order of a Public Authority consequent upon the existence or threat of hazardous conditions either actual or suspected at an insured location;
- vi. the pollution by oil, chemical or other substance of any beach, waterway or river within a radius of 5 miles of an insured location as a result of loss, damage or destruction not otherwise excluded;
- vii. a mandatory evacuation at an insured location due to the type of situation referred to in this clause: a compulsory notification of an evacuation of an insured location or portion thereof with an effective date and time ordered by either the Insured or by a responsible civil or military authority. Such mandatory evacuation must be initiated during the term of this insurance.

For purposes of measurement of the Time Element loss with regards to this condition, the Period of Liability shall commence 48 hours before the mandatory evacuation notification is given by the Insured or by a responsible civil or military authority.

The length of time for which loss may be claimed shall not exceed such length of time as would be required with the exercise of due diligence and dispatch to restore the Insured's business to the condition that would have existed had no loss occurred and shall include the time required to make the premises conform to the order of a competent public authority, beginning with the interruption or interference with the business.

Coverage provided under Special Time Element – Cancellation Coverage shall not conflict or reduce coverage provided elsewhere in this policy, most notably Contingent Time Element, Interruption by Civil or Military Authority, or Loss of Ingress or Egress.

Tenant Move Back Costs

Expenses incurred by the Insured to pay for 'covered move back costs' of tenants who temporarily vacate a "location" insured hereunder, when the "location" is untenable due to physical loss, damage or destruction by a peril insured by this Policy.

Covered move back costs means documented, reasonable and necessary costs of packing (including insuring and carting) tenants' property; costs of reestablishing utility services; costs of assembling and setting up tenants' property at the location of loss, and costs to unpack and reshelve stock and supplies. Covered move back expenses do not include, however, loss caused by the termination of a lease or other agreement, nor security deposits or other payments, forfeitures or penalties made to the landlord or lessor of other quarters used by the tenants.

Lost Key Consequential Damage

The actual cost of keys, the cost of adjusting locks to accept new keys or the cost of new locks, if required, of like kind and quality, including the cost of their installation when a master or grand master key is lost, damaged or destroyed by a peril insured by this Policy.

The coverages stated above are subject to the sublimits of liability as shown in Paragraph F. **OTHER SUBLIMITS FOR LOSS ARISING OUT OF ONE OCCURRENCE** in the Declarations section of the policy and is subject to the Policy provisions, including applicable exclusions and deductibles, all as shown in this section and elsewhere in this Policy

MINIMUM EARNED PREMIUM CLAUSE

THIS ENDORSEMENT CHANGES THIS POLICY. PLEASE READ IT CAREFULLY.

In the event of cancellation of this policy by the insured, a minimum earned premium of 25% of the annual premium shall become payable by the insured; any conditions of the policy to contrary notwithstanding. Failure of the insured to make timely payment of premium shall be considered a request by the insured for the company to cancel. In the event of such cancellation by the company for non-payment of premium, the minimum premium shall be due and payable; provided, however, such non-payment cancellation shall be rescinded if the insured remits the full premium due within 10 days of receiving the cancellation notice.

All other terms and conditions of this policy shall remain unchanged.

Notice of Loss

Notwithstanding any provision to the contrary within this insurance policy, any endorsement thereto, or any policy to which this policy may follow form, the insured shall as soon as practical report in writing, to:

Commercial Property - Claims
1221 Avenue of the Americas
New York, NY 10020
E-Mail addressed to: insuranceclaims@sompo-intl.com

every loss, damage or occurrence which may give rise to a claim under this policy and also file with the Company within ninety (90) days from the date of such loss, damage or occurrence, a detailed sworn proof of loss.

SERVICE OF SUIT ENDORSEMENT

THIS ENDORSEMENT CHANGES THIS POLICY. PLEASE READ IT CAREFULLY.

In the event of failure of the Insurer to pay any amount claimed to be due under the terms of this policy, the Insurer, 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 Insurer'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. In any suit instituted against the Insurer upon this policy, the Insurer will abide by the final decision of such court or of any appellate court in the event of appeal.

It is further agreed that service of process in such suit may be made upon the Senior Vice President - Claims, 1221 Avenue of the Americas New York, NY 10020

Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefore, the Insurer designates the Superintendent, Commissioner or Director of Insurance, or other officer specified for that purpose in the statute, as its true and lawful attorney upon whom service may be made of 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 Senior Vice President - Claims as the person to whom the said officer is authorized to mail such process or a true copy thereof.

All other terms and conditions of this policy shall remain unchanged.

ENDORSEMENT

Named Insured: Hakkasan USA, Inc.

Policy Number: ARL30001017500

Endorsement

Endorsement

Effective Date: April 01, 2019

Number: N/A

12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations.

DISCLOSURE PURSUANT TO THE TERRORISM RISK INSURANCE ACT

THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.

It is agreed that:

SCHEDULE: Terrorism Premium (Certified Acts):

A. Disclosure of Premium

In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium (shown in the Schedule above), if any, attributable to coverage for terrorist acts certified under the Terrorism Risk Insurance Act as amended and reauthorized. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement.

B. Disclosure of Federal Participation in Payment of Terrorism Losses

The United States government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals 85% in 2015 and decreases its share 1% each calendar year to a total of 80% in 2020 of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year, the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

C. Cap On Insurer Participation In Payment Of Terrorism Losses

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

ENDORSEMENT

A handwritten signature in black ink, appearing to read "M. L. [unclear]", written over a horizontal line.

Authorized Representative

This endorsement does not change any other provision of the Policy. The title and any headings in this endorsement are solely for convenience and do not affect its meaning.

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ENDORSEMENT

Named Insured: Hakkasan USA, Inc.

Policy Number: ARL30001017500

Endorsement

Endorsement

Effective Date: April 01, 2019

Number: N/A

12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations.

CERTIFIED TERRORISM LOSS COVERAGE NON-CERTIFIED ACTS OF TERRORISM AND NUCLEAR, BIOLOGICAL AND CHEMICAL CERTIFIED ACTS OF TERRORISM EXCLUSION

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.

It is agreed that:

1. Definitions

1. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:
 - a. The act resulted in insured losses in excess of \$ 5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
 - b. The act resulted in damage:
 - a. Within the United States (including its territories and possessions and Puerto Rico); or
 - b. Outside of the United States in the case of:
 - i. An air carrier (as defined in Section 40102 of title 49, United States Code) or United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; or
 - ii. The premises of any United States mission; and
 - c. the act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
2. "Non-certified act of terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not a "certified act of terrorism".

3. "Non-certified terrorism loss" means any loss that results from a "non-certified act of terrorism".
4. For purposes of this endorsement, "any injury or damage" means any injury or damage covered under this policy to which this endorsement is applicable, and includes but is not limited to any loss, claim, cost, expense or damage.

2. Cap on Losses; Certified Terrorism Act Loss Coverage

1. If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and the insurer has met its deductible under the Terrorism Risk Insurance Act, the insurer shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.
2. The terms of any terrorism exclusion in this policy, other than the Nuclear, Biological, Chemical and Radiological Certified Act Exclusion, are amended to include the following provision:

This exclusion does not apply to a "certified act of terrorism".

3. Non-Certified Terrorism Act Exclusion

1. This policy will not pay for loss or "any injury or damage" arising directly or indirectly, out of a "non-certified act of terrorism", including any action in hindering or defending against an actual or expected "non-certified act of terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss, or "any injury or damage".
2. The foregoing non-certified act of terrorism exclusion does not apply to any loss or "any injury or damage" that results from an act that is not certified by Secretary of the Treasury to be an act of terrorism solely because the property and casualty insurance losses resulting from that act do not exceed \$5,000,000.

D. Nuclear, Biological, Chemical and Radiological Certified Act Exclusion

This policy will not pay for loss or "any injury or damage" arising directly or indirectly, out of a "certified act of terrorism":

1. That involves the threat or actual use, release or escape of nuclear or radioactive materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination;
2. That is carried out by means of the actual or threatened dispersal or application of pathogenic or poisonous biological or chemical materials; or
3. In which pathogenic or poisonous biological or chemical materials are released, and it appears that the purpose was to release such materials.

Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss, or "any injury or damage".

E. Other Provisions

The following provisions are added to the policy:

In the event of any incident of a "non-certified terrorism loss" that is not subject to the non-certified act of terrorism exclusion, coverage does not apply to loss, or "any injury or damage" that is otherwise excluded under this policy.

This endorsement does not provide coverage for any loss that would otherwise be excluded by this policy under:

1. Exclusions that address war, military action or nuclear hazard; or a
2. Any other exclusion.

This endorsement does not change any other provision of this policy.



Authorized Representative

This endorsement does not change any other provision of the Policy. The title and any headings in this endorsement are solely for convenience and do not affect its meaning.

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

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

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

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

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

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

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



**Endurance American Specialty Insurance Company
1221 Avenue of the Americas
New York, NY 10020**

IN WITNESS WHEREOF, the Insurer has caused this Policy to be signed by its President and Senior Vice President and countersigned where required by law on the Declarations page by its duly authorized representative.

A handwritten signature in cursive script that reads "Richard M Appel".

Senior Vice President

A handwritten signature in cursive script that reads "Christopher Evans".

President

EXHIBIT 2

EXHIBIT 2

GENERAL CHANGE ENDORSEMENT

Named Insured:	Hakkasan USA, Inc.		
Policy No.:	ARL30001017500	Endorsement Effective Date:	04/01/2019
Issued By:	Endurance American Specialty Insurance Company	Endorsement No.:	1

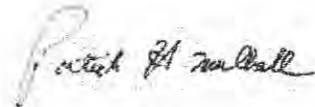
THIS ENDORSEMENT CHANGES THIS POLICY. PLEASE READ IT CAREFULLY.

It is hereby understood and agreed that this policy has been amended to reflect the following changes:

Section F. Other Sublimits for Loss Arising Out of One Occurrence is revised to include the:

Coverage	Sublimit
Earthquake Sprinkler Leakage	\$75,000,000
Special Time Element Cancellation Coverage	\$1,500,000

Nothing herein contained shall vary, alter, waive, or extend any of the terms, representations, conditions or agreements of the policy other than as above stated.



Authorized Representative

EXHIBIT 3

EXHIBIT 3



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May 22, 2020

VIA EMAIL

Brandon Roos
General Counsel
Hakkasan USA, Inc.
broos@hakkasangroup.com
(702) 247-3968

Re:

Claim No.: 10264774
Insurer: Endurance American Specialty Insurance Company
Insured Name: Hakkasan USA, Inc.
Policy Number: ARL30001017500
Reported Date of Loss: 2/1/2020
Report Date: 3/16/2020
Description of Loss: Covid-19 Business Interruption

Dear Mr. Roos:

We write in response to your reply correspondence dated April 17, 2020. We also acknowledge receipt of your attorney's correspondence of May 20, 2020. Please note that Endurance American Specialty Insurance Company ("Endurance") is now a member of the Sompo International Companies ("Sompo") and Sompo is responsible for handling claims on behalf of Endurance.

We understand this claim to be related to COVID-19, and we appreciate the partial responses to our request for information you have provided with your letter. We note that your letter refers, without specificity, to "loss/es of perishable items," but does not otherwise identify any physical loss or damage to any specific property. As well, the Florida location identified in your letter does not appear to be on the Schedule of Locations in respect of policy no. ARL30001017500 (the "Policy"). For each location mentioned in your letter, please: (1) identify their street addresses, (2) specify whether any physical loss or damage has occurred (including whether any physical loss or damage to real property has occurred), (3) if there has been physical loss or damage identify: (a) the specific property damaged, (b) the cause of the damage, (c) scope of the damage, and (d) the estimated cost to repair, and (4) identify and provide copies of any state, municipal or other governmental orders impacting your business operations.

We would also appreciate receiving complete answers to each of the other questions in the request for information that was sent to you on April 15, 2020 as and when you are able to provide them. (A copy of that request for information, as it was originally sent to you, is attached for your ready reference.) In particular, please let us know:

- What is required to resume full operation of your business? (RFI No. 9)
- What is required to resume partial operations? (RFI No. 10)
- What is your total estimated loss (including separate allocations of the amount of your claimed physical damage and the amount of your claimed business interruption)? (RFI No. 11)



- Has ingress or egress to your business been physically prevented, either partially or totally, and if so, provide an explanation as to how and why? (RFI No. 12)
- Identify the state or city order(s) impacting your business operations (if so, please provide copies)? (RFI No. 13)
- Have any suppliers or customers been prevented from providing or receiving goods or services? If so, please identify the supplier and/or customer, explain how that supplier or customer's property was damaged, and explain how that damage prevented (i) Your supplier from providing you goods or services, or (ii) Your customer from accepting your goods or services. (RFI No. 14)

This information will assist us in moving the adjustment process forward as expeditiously as possible.

In the meantime, we will endeavor to provide you with our views regarding coverage based on the limited information you have provided to date.

Subject to all of its terms, exclusions, conditions and limitations, the Policy contains the following potentially applicable provisions:

SECTION D – GENERAL POLICY CONDITIONS

...

XI. LOSS CONDITIONS

A. Duties In The Event Of Loss Or Damage

The Insured must see that the following are done in the event of direct physical loss or damage to Covered Property:

...

3. ... furnish a complete inventory of the lost, destroyed, damaged and undamaged property ...

If there is physical damage to property, please advise when Hakkasan will be in a position to furnish an inventory of what is claimed to be its lost, destroyed or damaged property.

SECTION A – DECLARATIONS

...

V. INSURED LOCATION

The coverages under this policy apply to an Insured Location unless otherwise provided.



An Insured Location is a location:

- A. Listed on a Schedule of Locations on file with the Company.
- B. Covered under the terms and conditions of the Miscellaneous Unnamed Locations Coverage, the Newly Acquired Property Coverage, or the Errors and Omissions provisions.

A location is as specified in the Schedule of Locations; or if not specified in the Schedule of Locations, a location is a site or area which is owned, leased or occupied by the Insured and is bounded on all sides by areas which are not owned, leased or occupied by the Insured.

VI. OCCURRENCE

Occurrence means any one accident, loss, disaster, casualty, incident or series of accidents, losses, disasters, casualties or incidents, including all resultant or concomitant insured losses, not otherwise excluded by this Policy, arises out of a single event or originating cause.

The occurrence must occur during the policy period.

When the term applies to loss or losses from the perils of windstorm or hail, named storm, riot, strike or civil commotion, vandalism and malicious mischief, earthquake or flood, to the extent any such peril(s) are covered, all losses arising from such peril(s) occurring during a continuous period of 72 hours shall be deemed to be a single occurrence. You may elect the moment at which the 72 hour period shall be deemed to have commenced, which shall not be earlier than the time when the first loss occurs to the covered property, but no two such 72 hour periods shall overlap.

If the occurrence commences during this policy period, then we shall treat the entire occurrence as occurring during this policy period.

VII. LIMITS OF LIABILITY

...

SUBLIMITS OF LIABILITY:

...

F. OTHER SUBLIMITS FOR LOSS ARISING OUT OF ONE OCCURRENCE:

...

Civil Authority	\$ 5,000,000
-----------------	--------------



...

Decontamination Costs \$ 2,500,000

...

Ingress/Egress \$ 5,000,000

...

Pollutant Cleanup and Removal \$1,000,000
– Annual Aggregate

...

The above sublimits may be amended as necessary. Other Limits of Liability may be added. All of the above limits apply per occurrence unless otherwise indicated.

GENERAL CHANGE ENDORSEMENT NO. 1

...

Section F. Other Sublimits for Loss Arising Out of One Occurrence is revised to include the:

...

Special Time Element Cancellation Coverage \$ 1,500,000

SECTION B - PROPERTY DAMAGE COVERAGE PART

...

III. ADDITIONAL COVERAGES

...

B. Unless otherwise indicated, the Additional Coverages provided below are subject to the applicable limit of liability; will not increase the policy limit of liability; and are subject to the policy provisions including applicable exclusions and deductibles, all as shown in this section and elsewhere in this policy.

...

6. Decontamination Costs



If covered property is contaminated as a direct result of physical loss or damage insured by this policy and there is in force at the time of the loss any law or ordinance regulating "contamination" due to the actual, not suspected presence of, "contaminant(s)", then this policy covers, as a direct result of enforcement of such law or ordinance, the increased cost of decontamination and/or removal of such contaminated covered property in a manner to satisfy such law or ordinance. This Additional Coverage applies only to that part of covered property so contaminated due to the actual, not suspected presence of, "contaminant(s)" as a direct result of insured physical loss or damage. This Additional Coverage does not apply to "fungus", wet rot or dry rot.

...

24. Pollutant Cleanup And Removal

We will pay the necessary and reasonable expenses actually incurred by you to cleanup and remove "pollutants" from land or water confined to Insured Locations if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is directly caused by physical loss or damage not otherwise excluded, which occurs during the term of this policy.

...

SECTION C - TIME ELEMENT COVERAGE PART

...

II. LOSS INSURED

- A.** If applicable, this policy insures "Time Element" loss the Insured sustains as provided in the Time Element Coverages. The Time Element loss must result from the necessary "suspension" of the insured's business activities at an Insured Location during the Period of Restoration. The "suspension" must be due to direct physical loss of or damage to property of the type insurable under this policy, and the loss or damage must be caused by a "covered cause of loss" as insured against in this policy.

...



IV. TIME ELEMENT COVERAGE EXTENSIONS

...

D. Ingress/Egress

We will pay the actual Gross Earnings loss sustained by the Insured, resulting from the necessary "suspension" of the Insured's business activities, when existing ingress to or egress from an Insured Location is prevented. The physical prevention of ingress to or egress from an Insured Location must be due to direct physical loss or damage caused by a "covered cause of loss", to property of the type insured against by this policy, within one mile of an Insured Location.

As respects Ingress/Egress, the following exclusions are applicable:

This policy does not insure loss resulting from:

1. Lack of incoming or outgoing service consisting of electric, fuel, gas, water, steam, refrigerant, sewerage and voice, data or video.
2. Picketing or other action by strikers except for physical damage not excluded by this policy.

This Coverage Extension provides coverage for a period not to exceed **thirty (30) consecutive days** from the date of the direct physical loss or damage.

This coverage does not apply if ingress to or egress from the Insured Location is prohibited by order of civil or military authority.

E. Interruption By Civil Authority

This policy is extended to cover the actual Gross Earnings loss sustained and Extra Expense Incurred while access to an Insured Location is specifically denied by order of civil authority. This order must be a result of direct physical loss of or damage to property, other than at an Insured Location, and must be caused by a "covered cause of loss".

Unless otherwise indicated in the Declarations, this coverage extension is limited to **thirty (30) consecutive days** from the date of the order.

SECTION E - DEFINITIONS

These definitions relate solely to Section B. III. Additional Coverages, B.11. Equipment Breakdown: . . .



10. "Contaminant" - Any foreign substance, impurity, chemical, "pollutant", hazardous material, poison, toxin, pathogen or pathogenic organism, except "fungus" wet rot or dry rot.

11. "Contamination" - any condition of property due to the actual presence of any foreign substance, impurity, chemical, "pollutant", hazardous material, poison, toxin, pathogen or pathogenic organism, except "fungus" wet rot or dry rot.

12. "Covered Cause of Loss" - all risks of direct physical loss of or damage from any cause unless excluded. . . .

25. "Pollutants" - any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

All of the above cited coverage provisions require physical loss or damage to property. To the extent there is no physical loss or damage to property, Endurance reserves the right to deny coverage for Hakkasan's claim.

The Policy also contains the following endorsement:

Specialty Clause Endorsement

This policy is extended to cover the following:

...

Special Time Element – Cancellation Coverage

Notwithstanding that Time Element loss insured under this Policy must be caused by or result from loss, damage or destruction not otherwise excluded, this Policy is extended to insure the actual loss sustained by the Insured resulting from the cancellation of, and/or inability to accept bookings or reservations for accommodation, receive admissions, and/or interference with the business at any insured location all as a direct result of the "Occurrence" of:

...

ii. contagious or infectious disease (including decontamination and clean up costs);

...

iv. any of the following that occur within a radius of five (5) miles of an insured location ...

(a) outbreak of a contagious and/or infectious disease



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...

- v. closing of the whole or part of the premises of the Insured either by the Insured or by order of a Public Authority consequent upon the existence or threat of hazardous conditions either actual or suspected at an insured location

...

The coverages stated above are subject to the sublimits of liability as shown in Paragraph F. **OTHER SUBLIMITS FOR LOSS ARISING OUT OF ONE OCCURRENCE** in the Declarations section of the policy and is subject to the Policy provisions, including applicable exclusions and deductibles, all as shown in this section and elsewhere in this Policy

Based on the facts and circumstances that you have communicated to us to date, our position is that the the Special Time Element – Cancellation Coverage afforded in the Specialty Clause Endorsement quoted above, subject to the \$1,500,000 sublimit, appears to have been triggered by your claim.

IV. EXCLUSIONS

- A. This policy excludes loss or damage directly or indirectly caused by or resulting from any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss:

...

- 9. **Loss Due To Virus Or Bacteria** - This policy does not insure against loss or damage caused by or resulting from any virus, bacterium or other micro-organism that induces or is capable of inducing physical distress, illness or disease; however, this exclusion does not apply to loss or damage caused by or resulting from "fungus", wet rot, dry rot. Such loss or damage is addressed in a separate exclusion in this policy.

This exclusion applies to all coverage under all forms and endorsements that comprise this policy, including but not limited to forms or endorsements that cover property damage to buildings or personal property and forms or endorsements that cover gross earnings, extra expense or action of civil authority.

With respect to any loss or damage subject to this exclusion, such exclusion supersedes any exclusion relating to "pollutants".



...

- B. This policy will not pay for loss or damage caused by or resulting from any of the following unless specifically stated elsewhere in this policy:

...

10. **Pollution** - This policy does not insure against loss or damage due to the discharge, dispersal, seepage, migration, release or escape of "pollutants" except as provided in the Additional Coverage section of this policy, unless the discharge, dispersal, seepage, migration, release or escape is directly caused by physical loss or damage not otherwise excluded.

...

- C. We will not pay for loss or damage caused by or resulting from the following unless it results from other direct physical loss or damage not excluded by this policy:

1. **"Contamination"** - We will not pay for any cost due to "contamination" including the inability to use or occupy property or any cost of making property safe or suitable for use or occupancy. If "contamination" due only to the actual not suspected presence of "contaminants" directly results from other physical damage not excluded by this policy, then only physical damage caused by such "contamination" may be insured.

To the extent Hakkasan's claim is based upon physical loss or damage to property, Endurance reserves the right to deny coverage for Hakkasan's claim on the basis of one or more of the above exclusions.

Please note that this letter is sent under a complete reservation of the rights and defenses found under the Policy and the law. Any and all such rights and defenses are hereby expressly reserved under the Policy and the law. This letter may not be deemed to be a waiver of any of Endurance's rights, or as an admission on the part of Endurance.

This letter is based upon currently available information. This letter does not necessarily include reference to all of the Policy provisions Endurance may rely upon when all of the facts and the nature of the claim are fully known and understood and Endurance's requests for information have been fully answered. For the same reason, this letter does not necessarily explain all of the coverage defenses that may be understood to apply to the claim once the facts are fully known, reported and understood. Accordingly, Endurance expressly reserves and does not waive its right to invoke any and all coverage positions, rights, remedies, defenses, terms, warranties, covenants, conditions, endorsements, limitations or exclusions whatsoever, howsoever they may arise, whether or not specifically stated or referenced in this letter. Endurance reserves the right to amend, correct or otherwise modify this letter,



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or its coverage position, in any respect as additional facts or documents become known, whether by issuing a further or supplemental reservation of rights, or otherwise.

We value our relationship with you and we are fully prepared to continue our dialogue with you so that we have a common understanding of the facts of this claim and how the terms and conditions of the referenced Policy respond to that claim. If you have any further information or documentation for us to consider in connection with this matter, please submit the same to the undersigned for review and we will most certainly consider that information carefully and will further evaluate coverage if need be. We attach a proof of loss form to this letter for this purpose. We also look forward to receiving more specific answers to the questions we have previously asked and which are referenced at the outset of this letter. Please note that our investigation of this claim is ongoing.

Kind Regards,

Joe Williams
Senior Claims Specialist
Sompo International
(678) 578-1325

Enclosed: COVID-19 Request for Information

cc: daniellegilmore@quinnemanuel.com
Christine.Lawson@WillisTowersWatson.com

REQUEST FOR INFORMATION

1. Business Name: _____
2. Loss Location(s): _____
3. Date of loss: _____
4. Please describe in detail the factual circumstances which form the basis for your insurance claim.

5. Please specify whether you are claiming direct physical loss of or damage to real property, personal property, stock and supplies, and/or merchandise: _____

6. If you are claiming direct physical loss of or damage to insured property, please explain the nature of that physical loss or damage, identify the specific property that you claim was damaged, and identify the date said property was damaged. _____

7. What is the nature of the interruption at your business? _____

8. Is your business fully closed? _____
 - a. If so, on what date did it fully close? _____
 - b. If closed, what is the reason for the closure? _____
9. Has your business reduced its hours of operation? _____
 - a. If so, please explain the nature of this partial operation including, but not limited to, whether your business is operating with reduced staff, whether your operation is open for pickup and/or deliveries? _____

 - b. If so, please advise when the reduction in operation began? _____

10. Please advise what is required to resume full operation of your business? _____

11. Please advise what is required to resume partial operations? _____

12. What is your total estimated loss? _____

a. Please separately allocate the amount of your claimed physical damage and business interruption. _____

13. Has ingress or egress to your business been physically prevented, either partially or totally, and if so, provide an explanation as to how and why? _____

14. Is there a state or city order impacting your business operations? _____

a. If so, please provide a copy of the order.

15. Have any suppliers or customers been prevented from providing or receiving goods or services?

a. If so, please identify the supplier and/or customer, explain how that supplier or customer's property was damaged, and explain how that damage prevented:

i. Your supplier from providing you goods or services: _____

ii. Your customer from accepting your goods or services: _____

16. Please provide any additional information relevant to your claim. _____

SWORN STATEMENT IN PROOF OF LOSS

POLICY NUMBER

COMPANY CLAIM NO.

AMOUNT OF POLICY AT TIME OF LOSS

AGENCY AT

DATE ISSUED

AGENT

DATE EXPIRES

Endurance American Specialty Insurance Company. At time of loss, by the above indicated policy of our insured against loss by to the property described under the above policy, according to the terms and conditions of the said policy and all forms, endorsements, transfers, and assignments attached thereto.

- 1. Time and Origin: A loss occurred about the hour of o'clock, on the day of. The cause and origin of the said loss were.
2. Occupancy: The building described, or containing the property described, was occupied at the time of the loss as follows, and for no other purpose whatever.
3. Title and Interest: At the time of the loss, the interest of your insured in the property described therein was.
4. No other person or persons had any interest therein or encumbrance thereon, except:
5. Changes: Since the said policy was issued there, has been no assignment thereof, or change of interest, use, occupancy, possession, location or exposure of the property described, except:
6. Total Insurance: THE TOTAL AMOUNT OF INSURANCE upon the property described by this policy was, at the time of the loss, \$ as more particularly specified in the apportionment attached under this policy besides which there was no policy or other contract of insurance written or oral, valid or invalid.

7. The Replacement Cost Value of said property at the time of the loss:

8. Less Recoverable Depreciation

9. Actual Cash Value

10. Less deductible

11. Net Claim:

12. The said loss did not originate by any act, design or procurement on the part of your insured, or this affiant; nothing has been done by or with the privity or consent of your insured or this affiant, to violate the conditions of the policy, or render it void; no articles are mentioned herein or in destroyed or damaged at the time of said loss; no property saved has in any manner been concealed, and no attempt to deceived the said company, as to the extent of said loss, has in any manner been made. Any other information that may be required will be furnished and considered a part of this proof.

It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

The furnishing of this blank or the preparation of proofs by a representative of the above insurance company is not a waiver of any of its rights.

STATE OF INSURED

COUNTY OF TITLE

SUBSCRIBED AND SWORN BEFORE ME THIS DAY OF

Notary Public