



INTRODUCTION TO INSURANCE AND REINSURANCE CLAIMS MANAGEMENT

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1. INTRODUCTION

Effective claims management is one of the most important activities in a successful insurance or reinsurance company.

On the one hand by far the largest area of payment for an insurance or reinsurance company is claims, and by savings through good claims management one can beneficially impact the profit and loss account to a much greater extent than by savings in any other sector.

On the other hand paying valid claims is what the insurance and reinsurance business is all about. However good the risk management of a client may be, claims are inevitable and this is why the insurance or reinsurance client purchased cover in the first place. Failure to honour the promise of cover in the event of a valid claim will not only damage the credibility of the company providing cover, but of the industry as well.

Generally the aspect of paying claims is also the main focus of regulators – not only the ability, but also the willingness to pay claims. The easiest way to have problems with the regulator is to fail in this area of activity.

If the above points are not entirely convincing, most smaller insurers and reinsurers rely on their ability to purchase cover from reinsurers and retrocessionaires respectively. If such companies cannot properly control their losses, they will be unable to obtain cover at an economic price, and without cover they will be unable to continue in business. This course “introduction to insurance and reinsurance claims management” is the sixth in a series of courses.

It follows the first course “Introduction to Reinsurance” which was designed:

- To provide you with an introduction to the world of reinsurance.
- To enable you to feel comfortable with, and understand, the core concepts and the principles.

It follows the second course which was designed to provide you with the key elements of the practice of reinsurance:

- An understanding of reinsurance documentation
- A knowledge of additional types of reinsurance cover not covered in course 1
- An understanding of reinsurance accounting
- An understanding of statistics, incurred but not reported claims and risk profiles
- An understanding of pricing methods
- An understanding of the reinsurance cycle.

and a third course which set out the basic elements to enable you to design a reinsurance programme.

It also follows the fourth course – “Basic Technical Reinsurance Accounting” – which covered the main vocabulary, items and processes required to understand and render the normal accounts required for non-proportional and proportional reinsurance treaties.

Finally it follows the fifth course – “Advanced Technical Reinsurance Accounting” – which covered the more complex challenges which can be faced in technical reinsurance accounting including non-traditional and financial reinsurance contracts and as-if statistics.

The reader of this course should have read at least the previous introductory courses prior to reading this manual and should be familiar with reinsurance terminology, forms and types of reinsurance and reinsurance documentation - all covered in previous courses.

The objective of this course is to further enhance the knowledge gained by now covering claims.

The main sections of this manual are as follows:

Learning Objectives:

Section 2 – A definition of claims management and its role in an insurance company

Learning objective: To have a clear understanding of what is claims management and its role in an insurance company

Section 3 - A definition of claims management and its role in a reinsurance company

Learning objective: To have a clear understanding of what is claims management and its role in a reinsurance company.

Section 4 – The legal position

Learning objective: To be able to appreciate the scope of legal issues that apply to claims management.

Section 5 – Claims administration

Learning objective: Understanding the necessary claims processes to secure an efficient administration.

Section 6 – Factors determining the validity of a claim

Learning objective: To understand the process of vetting a claim and determining whether it is covered or not.

Section 7 – Claims negotiation, adjustment, litigation and payment

Learning objective: To understand the basics of negotiating, litigating and adjusting claims including payment.

Section 8 – Processing non-complex property claims

Learning objective: To be familiar with the processing of non-complex property claims.

Section 9 – Processing non-complex liability claims

Learning objective: To be familiar with the processing of non-complex liability claims.

Section 10 – Dealing with complaints and bad faith accusations

Learning objective: To be able to deal with complaints and bad faith accusations.

Section 11 - Outsourcing

Learning objective: To be able to review outsourcing needs.

We hope this manual will provide you with the additional knowledge you will need to reach these goals, and will also encourage your further research of this important aspect of insurance and reinsurance.

Other manuals will soon be available to assist you with these further researches.



2. A DEFINITION OF CLAIMS MANAGEMENT AND ITS ROLE IN AN INSURANCE COMPANY

Learning objective: To have a clear understanding of what is claims management and its role in an insurance company.

2.1 What is claims management?

The best advertisement a company can have is “we don’t advertise, we pay claims!”. Paying claims is the fulfilment of the promise made in the policy issued to the client that they will not suffer in the event of a loss but be indemnified such that they will be in the same position after the loss as they were before the loss as far as financial compensation can do this.

This is the most important function of an insurance company in the eyes of the policyholder – support and prompt payment in the event of a loss.

It should be noted at this point that a larger client may only have contact with an insurance company through, or in company with, its broker. It may then be the broker who, in fact, has the main dealings with the insurance company. Nevertheless the broker will surely communicate any dissatisfaction with the insurance company to the client, thus the reputation of the insurance company vis-a-vis the client remains very relevant.

Often when a policyholder suffers a disaster they are desolate, they have no idea what to do or where to turn, and one of the first reactions will be to turn to their insurance provider. It may even be the first time they have properly read their policy. The section headed “What to do in the event of a claim” can be the beginning of the road to repair and recovery, or it can be a nightmare adding insult to the disaster already suffered.

Claims Management comprehends the processes and controls to provide an efficient and cost effective solution to deal with claims in the various classes of business underwritten by the company.

Claims management starts with the content of “What to do in the event of a claim” in an insurance policy, and ensures the policyholder can easily contact the company with the essential information they need to communicate, that they will be received – or the call will be answered – by a qualified person able to calm and guide them and introduce them into a process that will give them the knowledge they will need to both minimise their losses and receive the compensation due under the policy.

Within the company claims management needs to ensure the right infrastructure exists, with qualified people, to process claims entered into the process. The claims team/department may also need access to other departments: to underwriters who have knowledge of the client, to the accounts department to ensure premiums have been paid, to higher management where decisions outside the process need to be made.

Whether within the department or elsewhere, the claim should already be registered and the initial details recorded when the first contact was made by the client and an electronic or paper file opened. While the process will be dealt with in more detail later in this manual, it will include:

- i. Reviewing the information supplied – has sufficient information been provided? Has a claim form already been completed? Are medical or police reports or provider estimates needed? Could fraud and/or sanctions be involved?
- ii. What is the cover under the policy and the sum insured?
- iii. What is the current estimated amount of the claim? Will it be necessary to inspect the loss? Will outside experts/adjusters be required? What process to arrange repairs and/or transport for policyholders?
- iv. Are third parties involved? Where does the liability for the loss appear to be – with an insured or a third party? Is subrogation a possibility? Will outside legal assistance be required?

2.2 What should be the underlying philosophy?

As stated earlier, from the policyholder's point of view, a claim may be the only time the policyholder has a meaningful contact with the company. No other aspect of the company affairs, except its financial collapse or fraudulent dealings by its directors or management, is likely to be more damaging to its reputation than publications that it does not like to pay claims. Equally today with the internet and social media, policyholders wishing to complain about an insurance company's methods or attitudes when dealing with claims, can do so very quickly and effectively.

Finally many countries today have an ombudsman. An ombudsman is an official, usually appointed independently by government, to officially investigate complaints against, amongst others, insurance companies. The ombudsman can act as a mediator, but also can have meaningful powers to impose settlements, sanctions and fines.

It therefore is only good business sense to promote, even show off, the claims department as a centre-piece of the company's excellent services to policyholders and potential policyholders. The philosophy must be not only to promote the claims department, but to also make those excellent services a reality.



3. A DEFINITION OF CLAIMS MANAGEMENT AND ITS ROLE IN A REINSURANCE COMPANY

Learning objective: To have a clear understanding of what is claims management and its role in a reinsurance company.

3.1 What is claims management?

As with an insurance company claims management comprehends the processes and controls to provide an efficient and cost effective solution to deal with claims in the various classes of business underwritten by the reinsurance company.

Reputation for being willing and able to settle claims is equally important for a reinsurance company but the context is different.

Firstly, a reinsurance company is much more likely to have had contact with the reinsured prior to paying claims, although it is also possible that all communication passes through the reinsurance intermediary.

Secondly, when dealing with proportional treaties, the bulk of claims will be payable as an item in the quarterly or half yearly accounts rendered by the ceding company. In such cases it is only by exercising the “right of inspection” clause, or by requesting to make an audit, that the reinsurer can review individual claim files.

Otherwise, it is only in cases of cash loss requests that any individual details of losses will be received, unless the treaty is subject to bordereaux in this respect. However it may be that the ceding company refers particularly unusual or complex claims to its reinsurer for help and advice.

Thirdly, claims under excess of loss treaties are likely to be large claims on individual risks or large claims resulting from catastrophe events and these require different investigation from the more local claims likely to be received by insurance companies. This is not only a matter of size, but also location – possibly anywhere in the world, different languages, different cultures, and different laws. Equally there are issues such as reinstatement clauses, currency conversion clauses, stability/index clauses and hours clauses seldom used in local insurance policies. Sanctions issues are also more difficult to control on an international level.

Finally, there are issues such as claims co-operation and ex-gratia losses that need to be considered.

3.2 What should be the underlying philosophy?

While social media, and ceding companies reaching out to regulators in foreign countries with possibly different cultures and languages, may make reputational issues less important than for a local insurance company, nevertheless having a good reputation for solving claims problems and paying claims remains very important.

Once again the philosophy must be to have qualified employees and good processes to provide high level and timely services to ceding companies.

When entering new markets due consideration must be given to all the legal, cultural, economic and linguistic issues. What are likely to be the challenges and costs when dealing with complex claims or disputes?

4. THE LEGAL POSITION

Learning objective: To be able to appreciate the scope of legal issues that apply to claims management.

4.1 For an insurance company.

An insurance company has to be knowledgeable in a number of legal areas. Firstly there are regulatory issues, secondly there are general legal issues, such as contract law, and thirdly there are laws more specific to insurers such as the principle of indemnity and utmost good faith.

Regulatory issues.

Many jurisdictions require insurers to include clear wording in their policies of what an insured needs to do, and how it needs to communicate with the insurance company, in the event of a claim. Such information should include:

- The necessity that the insured report the claim as soon as possible. Some indication of timing may also be given to provide a guide of what the insurer expects. For example, in general claims should be reported within 3 working days.
- If the insured is using the services of a broker that there is clarity with whom the insurer should be communicating.
- Details of how the insured should communicate. Today there can be many forms of communication – by telephone, SMS, email, using a dedicated web site, or posting a letter. Each desired form should include full details of how to communicate – web site details, telephone numbers, and SMS contact details. Equally it should be defined which forms need to be completed and within what time frame, and whether this can be done online.
- The necessity that the insured take all reasonable steps to minimise the loss and also to retain any evidence that will be important either for assessing coverage under the policy or calculating the amount of the loss.
- That the insured clearly understands the obligation to help and facilitate the insurer in its investigation of the claim, and that the insured understands legal concepts such as subrogation and its consequences, should the insurer decide to exercise these legal rights.

The regulator may also require the insurer to perform certain tasks within a defined time-frame.

- The first obligation is generally to confirm to the insured or third party claimant receipt of the claim declaration, and to make clear to the insured/third party claimant what further information and/or completion of forms and/or evidence is necessary to support the claims notification. Time frames vary from a few working days to one or two working weeks.
- Once sufficient information has been received, there may be a time frame in which the insurer must investigate the claim and advise the claimant whether coverage is accepted or denied. If coverage is denied, on what grounds it is being denied. If coverage is accepted, what are the next steps in the process and to indicate to the claimant the time frame of the next steps. This time frame may be between two and four working weeks.
- If the next steps involve sending an employee of the insurer, or a third party assessor to visit the claimant, then details of the process and time frame must be communicated to the claimant. Equally any delays in time frames provided must be communicated to the claimant with reasons and a new time frame advised. This time frame may be between two and four working weeks. However where complex injuries are involved, or the claim is for loss of profits, or litigation is involved, it may not be possible for the insurance company to control or have any influence on time frames.
- Once the insurance company has the necessary information to decide on quantum, there will generally be a time frame in which it is obliged to make an offer to the claimant, and equally a time frame to pay the claimant once quantum has been agreed.

The regulator may also dictate how claims are to be handled and managed.

For example, the regulator may require the insurance company to produce a claims manual, and may specify some of the issues the manual must cover, for example, the claim process for the various classes of business in which the insurance company operates. The regulator may also require time frames, explaining relevant insurance terminology to the claimant, keeping the claimant informed. Equally the regulator may also require to know how the process will be audited and controlled and what minimum reporting standards may be required. The requirements may also include a minimum level of qualifications and training for the claims employees in the claims department and processes to prevent fraud. Possibly also to control fraud by making data available to databases which can be accessed by any insurance company in the marketplace.

General legal issues.

Insurance companies, like any other companies exercising a commercial activity, will be subject to the laws of the land, such as contract law, confidentiality, the ability to ask for and retain data, data storage, and exposure to accusations of negligence and bad faith.

While contract and liability laws are likely to evolve at a more leisurely pace, laws around technology can evolve rapidly especially regarding the use and storage of data, and the potentially costly consequences of data hacking and/or loss of data.

Insurance specific legal issues.

Insurable interest, utmost good faith, the principle of indemnity, subrogation and warranties.

Insurable Interest:

There was a period when, during the development of Lloyd's of London, it was not clear whether transactions were based on some sort of professional assessment of the risk, or were a pure gamble. This problem was not particular to Lloyd's at the time, it was prevalent in many institutions offering covers at the time. The principle of insurable interest was thus introduced as a prerequisite for any insurance contract to be effective to distinguish that contract from gambling. The United Kingdom was the first country to pass legislation that prohibited insurance contracts if no insurable interest existed. This requirement is contained in the Life Assurance Act of 1774 which renders life insurance contracts illegal if there is no insurable interest, and the Marine Insurance Act 1906, s.4 which renders such contracts void.

Thus the insured must have an "insurable interest" in the subject matter of the policy, or such policy will be void and unenforceable as it will be considered gambling. An insured has an insurable interest in a policy when they can show some type of financial benefit from the existence of the subject matter to be insured, or that they will suffer a pecuniary loss from the loss of such subject matter should the risk covered by the insurance policy occur.

Equally a reinsured must have an "insurable interest" in the subject matter of the reinsurance. If, for example, the reinsured wishes to obtain reinsurance to cover flooding in the centre of the country's capital city, but it does not have any risks there, then the reinsurance will be considered null and void. Thus, even if there is flooding at that location, as the reinsured had no pecuniary interest in that location and cannot prove it suffered any loss from the occurrence of the event it cannot make a claim under any reinsurance cover.

It should also be noted that although *Uzielli v. Boston Marine Insurance Co.* (1884), 15 Q.B.D. 16. established that an insurer has a potential liability under every subsisting policy that it has issued, and that it has an insurable interest in each risk, it is important to note in the "reinsurance" context that its interest is contingent upon the insured under the original policy also having an interest in the subject-matter. Without such an insurable interest of the insured, both the insurance and the reinsurance are void.

Utmost Good Faith:

Given that the person or company who offers a risk for insurance or reinsurance knows, or should know, much

more about that risk than the party willing to consider providing cover, it is natural that a greater degree of transparency should be expected than from a party to a simple commercial contract. Thus there is an obligation on the party seeking the cover to disclose all material facts so that the contract will accurately reflect the actual risk(s) being covered. The principles underlying this rule were stated by Lord Mansfield in the leading case of *Carter v Boehm* (1766) 97 ER 1162, 1164:

«Insurance is a contract of speculation... the special facts, upon which the contingent chance is to be computed, lie most commonly in the knowledge of the insured only: the underwriter trusts to his representation, and proceeds upon confidence that he does not keep back any circumstances in his knowledge, to mislead the underwriter into a belief that the circumstance does not exist... good faith forbids either party by concealing what he privately knows, to draw the other into a bargain from his ignorance of that fact, and his believing the contrary.»

Equally therefore reinsurance contracts demand the same obligation and the principle of utmost good faith is considered the foundation of reinsurance as well. Essentially this means that the buyer of the cover (the insurance company or ceding company as it is known in reinsurance parlance), or its agent/intermediary, must honestly present the risk(s) to the seller (in this case the reinsurer) and can only make a valid claim if it has in fact suffered a loss.

Thus if the ceding company hides material aspects of the risk(s) or falsely declares values, then it will be unable to successfully recover a claim from the reinsurer.

For example, if the ceding company/reinsured informs the reinsurer that it expects to cede a motor liability premium of \$200,000 when it knows full well that it will likely cede in excess of \$500,000, then it has misrepresented the facts to the prospective reinsurer, who will have the right to rescind/cancel the contract based on this misrepresentation.

Indemnity:

The principle of indemnity dictates that an insured or a reinsured should not profit from the cover it buys, but should only be compensated for its actual loss, thus settlement depends on the terms of the contract and the real amount of loss suffered. With some covers, determining the real amount of the loss is relatively easy. It is impossible to evaluate the worth of a human life and thus in life insurance the real amount of the loss is simply the face value of the policy when the insured person dies. Under liability insurance the liability damages rendered in a judgement by the court and the proven legal costs are generally paid out, subject to the policy limit. Calculating the indemnity under a property loss of profits cover can be very complex as it is often very difficult to prove what profit the insured might, or might not, have made had the loss not occurred. It must always be clear that moral hazard can occur if an insured or a reinsured is allowed to make a profit out of a loss event, not only because such a situation is clearly against public policy but also because it would materially increase the cost of obtaining cover. Equally an insured or reinsured cannot collect the same loss from multiple insurance policies or multiple reinsurance covers, even if they were with different parties.

Thus if the ceding company does not in fact itself have a real loss, then it has no right to make a claim against the reinsurer. For example, there is a large motor loss and the ceding company has to pay \$250,000 to injured passengers, but it is able to recover that money in full from the insurer of the driver who was responsible for the accident, then it cannot also claim the money from its reinsurer. Although there has been an accident, and there has been a valid claim under the original policy, the ceding company has suffered no loss, so it cannot make a claim against the reinsurer.

Subrogation:

Subrogation enables the insurance company to take the legal place of the policyholder and acquire the policyholder's rights and duties, in order to pursue a claim against a third party. The policyholder and the insurer need to understand the implications of subrogation. For example it is generally accepted practice that recoveries by way of subrogation are applied first to any excess that may have been payable by the insured. Thereafter recoveries reduce the loss "from the top downwards", thus reinsurers covering the higher layers of the loss benefit first.

Warranties:

Generally it has been established law that a breach of a warranty in an insurance policy, even if immaterial to

the risk insured, would enable an insurer to refuse all liability under the policy as from the date of the breach. This situation was made worse by including ‘basis clauses’ in the policy which turned representations made by the policyholder before the policy was issued into warranties.

In the UK the Insurance Act 2015 has changed this situation. Part 2 of the 2015 Act has created a new ‘duty of fair presentation’ in non-consumer insurance contracts, and while insurers still have effective remedies in the event of non-disclosure, the burden of proof is heavier than before and the remedies are proportionate to the breach. Part 3 of the 2015 Act has banned ‘basis clauses’ from non-consumer insurance contracts. A breach of a warranty no longer simply discharges liability, it only has the effect of suspending liability during the breach, but that liability is then reinstated when the breach is resolved. Equally an insurance company can no longer rely on non-compliance with a warranty, if the non-compliance was not relevant to the loss in question.

While thus the situation has changed in the UK, the effect of warranties in other countries may, or may not, have changed and reference needs to be made to the local laws.

4.2 For a reinsurance company.

A reinsurance company also has to be knowledgeable in a number of legal areas. The reinsurer must also understand the regulatory issues, general legal issues, and the more specific laws that apply to the reinsured. However the reinsurer must also understand all these issues in the country in which it is established as well, and may have serious challenges where the two groups of law differ.

In some countries the laws applying to insurers also apply to reinsurers, in other countries reinsurance companies are not considered the same as insurance companies. Often regulators see the contract between an insurer and a reinsurer as a contract between two knowledgeable parties, which is different from the relationship between the policyholder and the insurance company, where often the insurance company has much more knowledge about insurance than the policyholder. Many regulators thus concentrate on protecting consumers.

This may be a failing however as the ability of many insurance companies to pay claims depends on the prompt payment of those same claims by reinsurers. There is no escaping this reality and thus it is extremely important that the liabilities under policies of insurance are well reflected in the contracts of reinsurance. This aspect has become particularly important with regard to compliance with sanctions. Sanctions can be quite different between countries - which may mean that while the insurance company remains liable to the policyholder, the reinsurer refuses to pay as in its country of establishment that payment is illegal.

Thus reinsurers may be required to clarify the claims process to the reinsured, but equally there may be no such legal obligation. There may be no obligation to have a claims manual, nor a legal obligation to have competent staff.

The situation here is thus much less transparent, and a reinsured may have to rely much more on the “reputation” of the reinsurer, or the advice of its reinsurance intermediary. Many service providers today have numerous disclaimers in their documentation, so the legal position may still be that the reinsured has no legal remedies when it is unable to collect the monies it claims are legally due from the reinsurer.

The situation may be similar in the relationship between the reinsurer and its retrocessionaire.

These issues can be very complex, especially in the modern world of sanctions. While issues around claims co-operation, interpretation of what constitutes one risk, and issues of misrepresentation have all some legal precedents, sanctions is an animal that contracts, expands and re-creates itself on sometimes a daily basis. Even government officials are reluctant to give clear guidance, leaving the reinsurance parties in various stages of clarity as to the actual situation.

Even if the reinsurer has its establishment in the same country as the insurer, and they are both subject to the same laws and regulations, the reinsurer’s retrocessionaires may be established elsewhere, so the certainty of getting the money and having the liquidity necessary to pay claims is lacking.

In conclusion, regarding regulation, the reinsurer may or may not have the same obligations as an insurer in the same country of establishment. As regards the general laws of land, there will be no distinction. However, as regards laws particular to insurance, again, reinsurers may or may not be subject to those same laws.

Thus doing some due diligence on the laws applicable to reinsurers in their country of origin, and the enthusiasm of the government to which they are subject in respect of sanctions, should be considered a vital part of the process of choosing the right reinsurers from a claims perspective.



5. CLAIMS ADMINISTRATION

Learning objective: Understanding the necessary claims processes to secure an efficient administration.

5.1 For an insurance company

Claims administration is both a process and a discipline and where policyholders are involved it may be subject to regulations and compliance.

Kenya, for example, issued “Guidelines on claims management for the insurance industry” in June 2012 with the aim – quote – “to enhance efficiency, transparency, and disclosure of information to policyholders during claims processing and increase consumer satisfaction.” Unquote.

The guidelines cover how a company should respond in the first instance to a claimant, that the company should have a claims manual, the scope a company has to decline a claim, fraud detection and prevention, and also the guidelines deal with special issues involving motor claims.

The claims manual essentially needs to deal with the communications with the claimant, with timeframes for responses and payment of the loss.

These aspects are understandable – after all this is the area in which the insurer fulfils ... or fails to fulfil ... its promises. It is the heart of the effective operation of everything the insurer has advertised it is capable of. It is this aspect of the insurer - effective coverage in the event of loss - that enticed the insured to this insurer’s door.

However an insurance company of course needs to consider not only its communication with the insured, but it needs to have in place all the internal processes to record the losses, adjust them, account for them, and to provide reports and statistics – including the vital aspect of good reserving - to management and the regulator. It then also needs to consider its communication with reinsurers, the allocation of losses to the various treaties and facultative arrangements, the conditions under the various treaties – exclusion clauses, hours clauses, claims co-operation clauses etc. Finally the company must ensure the correct reporting to the relevant reinsurers, accounting to the reinsurers, the collection of payments due and the information that will be required for negotiation and renewal.

The basic process includes what has already been viewed in section 2 regarding the initial contact from the claimant, plus the subsequent actions which culminate in the payment of the claim, the release of any reserves and the closure of the file:

- The initial contact with the claimant:
 - This may be by telephone, through a claim portal on the insurance company’s web site, or via written means – an email or even a letter.
 - ◇ Establish a claims record.
 - ◇ The first set of actions required is to collect all the necessary information – by way of a claims form, or active questioning of the insured, and to have the insured confirm this information formally.
 - » This will enable the company to confirm the policy details and also verify the initial information provided by the insured when the risk was offered to the company.
- Is the claim valid?
 - If the claim is not valid why?
 - ◇ Is there an issue of avoidance because of a divergence of material facts with the original completed proposal form?
 - ◇ Is there suspicion of fraud?
 - ◇ Is the claim simply not covered by the policy?
 - » The need to inform the insured.
 - » Does the insured accept denial of the claim?
 - » Can the claim be closed or will it be necessary to further review the decision or go through a complaints process?

- If the claim is valid
 - ◊ Is there sufficient information to already calculate a first estimate of loss?
 - ◊ Are there any clauses or circumstances that may reduce the amount of the loss?
 - » Subrogation rights
 - » An excess or a deductible payable by the insured
 - » Underinsurance
 - » A limit or sub-limit in the policy
 - ◊ Are there any obligations to involve or advise reinsurers at this time?
- Is there sufficient information to settle the loss?
 - If there is sufficient information
 - ◊ Clearly explain to the insured the proposed basis of settlement, including an easy to follow table of how the proposed payment has been calculated.
 - » Does the insured accept the proposed claim settlement?
 - » Can the claim be settled, the file closed, and any reserve revised?
 - » If the insured does not agree to the settlement, will it be possible to further review the decision or will it be necessary to go through a complaints process?
 - If there is insufficient information
 - ◊ What further resources or information is required?
 - » Company inspection
 - » Assessors
 - » Legal input
 - Once there is sufficient information the process can be completed as described.

If reinsurance recoveries will be required, then it may be necessary to involve reinsurers at an early stage in the process if there is a claims co-operation clause, or if there are obligations to advise the reinsurer of a possible loss. If there are no such obligations, it may only be necessary to account for the claim in the relevant quarterly account.

Where an event is involved, the above process may be repeated many many times, and the losses totalled for recovery from an event cover.

As noted in the previous section, it may also be necessary to consider reinstatement clauses, index clauses, currency clauses, and hours clauses.

5.2 For a reinsurance company

Claims administration in a reinsurance company should follow a similar pattern to that of an insurance company, i.e. information gathering, assessing the validity of a claim, calculating the amount payable and then settling the claim.

Generally regulators pay much less attention to reinsurers, and it may well be that there is little or no regulation regarding the administration of claims other than the implied requirement to settle claims diligently. Thus vis-à-vis the client – the ceding company – there may be no regulatory time requirements to keep the ceding company advised, nor to pay in a timely fashion. It is thus important that these aspects are dealt with in the treaty wording if the ceding company wants to ensure certain minimum standards.

Nevertheless the reinsurance company will have similar regulatory requirements to keep proper accounting records and to produce financial reports, in which of course claims are an important aspect. Equally management will require reports and statistics.

If the reinsurer has a retrocession programme, there may again be claims co-operation requirements that mean involving the retrocessionaire at an early stage, and also the hours clauses, reinstatement clauses and other clauses that a ceding company needs to understand and apply when dealing with its reinsurers.

Unlike in an insurance company, first advices are unlikely to be received by telephone, and will generally provide organised and full information in a pre-agreed format. The ceding company should already have the information

required to check the validity of the claim and the likely size, so the reinsurer should not need to ask a lot of questions if the claim is not too complex.

As noted in 5 above, the extent to which claims are studied depends very much on the type of contract being processed.

For proportional treaties, the bulk of claims will be handled in the quarterly or half-yearly accounts and the only important claims aspect will be to check that any cash losses paid during the period between accounts have been duly credited in the next account received.

Facultative claims may be dealt with in a similar process to that described above for dealing with a direct claim. Once again claim validity at cedant level and expected size of loss should already be given and if the facultative cession is based on following the fortunes, then probably only issues such as any claim co-operation clause, and the correct cession are important. If the facultative cession is non-proportional, then rather than cession, it will be a correct slicing of the loss.

As regards non-proportional treaties, again as noted in 5 above, apart from the coverage aspect, there will be additional aspects, where relevant, such as reinstatement clauses, index clauses, currency clauses, hours clauses, and claim co-operation clauses. It may also be a requirement to review and apply any sanctions required by the country in which the reinsurer is established.

Thus for cash losses, facultative claims, and claims under non-proportional treaties, the basic process is likely to be:

- The initial contact from the ceding company:
 - This may be by written means – an email or a letter, or through a claim portal provided by the reinsurer.
 - ◊ Establish a claims record. Even a cash loss should be tracked until it is reimbursed.
 - ◊ There should be sufficient information to identify the ceding company and the reinsurance contract and the material details to classify the loss and the amount involved. If not this must be obtained.
 - This will enable the reinsurer to confirm the contract details and also verify the initial information provided by the reinsured when the contract was offered or renewed. (For example – the ceding company informed us they would not write cinemas, and here is a cinema claim!)
- Is the claim valid?
 - If the claim is not valid why?
 - ◊ Is there an issue of voidance for misrepresentation?
 - ◊ Is there suspicion of fraud?
 - ◊ Is the claim simply not covered by the contract?
 - » The need to inform the cedant.
 - » Does the cedant accept denial of the claim?
 - » Can the claim be closed or will it be necessary to further review the decision or go through an arbitral process?
 - If the claim is valid
 - ◊ Is there sufficient information to already calculate a first estimate of loss?
 - ◊ Are there any clauses or circumstances that may reduce the amount of the loss?
 - » The cedant has good subrogation rights.
 - » A deductible, loss corridor or co-reinsurance payable by the cedant.
 - » Hours clause, index clause, currency clause.
 - » A reinstatement premium payable.
 - » Has the claims co-operation clause been adhered to?
 - » Could sanctions apply?
 - ◊ Are there any obligations to involve or advise retrocessionaires at this time?
 - If there is sufficient information
 - ◊ Is the payment request from the cedant accurate?
 - » If accurate, pay the loss, reduce any reserve set up, and close the file.
 - » If inaccurate, explain the reinsurer's calculations to the reinsured.
 - » If the reinsured does not agree to the calculation will it be possible to further review the decision or will it be necessary to proceed to arbitration?
 - If there is insufficient information

- ◇ What further resources or information are required?
 - » Co-operate with the ceding company in the settlement of the loss as agreed or as necessary.
 - » Inspect the files of the ceding company.
 - » Jointly or individually appoint loss adjusters.
 - » Review the need for outside legal input.
- Once there is sufficient information, the process can be completed as described.



6. FACTORS DETERMINING THE VALIDITY OF A CLAIM

Learning objective: To understand the process of vetting a claim and determining whether it is covered or not.

6.1 A review of the important aspects to determine coverage under an insurance policy

We have seen in section 2 that the claims process includes the following:

- i. Reviewing the information supplied – has sufficient information been provided? Has a claim form already been completed? Are medical or police reports or provider estimates needed? Could fraud and/or sanctions be involved?

Minimum information is required to identify the insured and the policy under which a claim is being made, including details of the loss. From the identity of the insured it may already be possible to decide if sanctions may be an issue, and from the circumstances of the loss whether fraud may need to be considered.

The policy schedule should supply the basic information including the policy number, the name of the insured, the sums insured, the excesses, if any, and any additional coverage to which the insured may be entitled.

- ii. What is the cover under the policy and the sum insured?

Is the information provided under (i) above sufficient to make a first “triage” or decision as to whether the claim could be covered? This has two aspects. Firstly does the policy cover the type of loss being described. For example, the insured has suffered damages caused by flooding. Is flooding covered by the policy terms? If yes, then what is the amount being claimed – if available at this stage of the process? Is an excess applicable? Does the claim fall within the sums insured?

Coverage is generally defined in the insuring clause of the policy, for example:

Loss of or damage to your vehicle.

Subject to the exceptions set out below and to the general exceptions and general conditions contained in this policy, if your vehicle is stolen, damaged, or destroyed, we will at our option, either:

- *Pay for your vehicle to be repaired*
- *Or replace your vehicle*
- *Or pay the amount of the loss or damage*

The same cover also applies to the accessories and spare parts relating to your vehicle while these are on your vehicle. The maximum amount we will pay will be the market value of your vehicle immediately prior to the loss but not exceeding the estimate of value shown in the policy schedule.

It is also important to understand the difference between cover on a losses occurring basis, and cover on a claims made basis.

Under coverage on a losses occurring basis the insurer will respond to losses that occur during the term of the policy. Thus if a loss actually happens during the period of the insurance, it is covered.

Under coverage on a claims made basis, the insurer will cover claims made to it by the insured during the pe-

riod of the insurance policy regardless of when the loss actually occurred. However such insurance policies may limit when the loss occurred to a defined period in the past e.g. this coverage shall only apply to losses which have occurred since 2001.

If one takes, for example, the history of asbestos. Mr. Lomo worked in the ABC Manufacturing Company where asbestos was used in the manufacturing processes from 1.1.1985 to 31.12.1999.

He became ill, and his doctor diagnosed malignant mesothelioma on 1.7.2014. Mr. Lomo brought an action against ABC on 15.2.2015. ABC advised their insurer on 20.2.2015.

It is not possible to accurately define in which policy period the loss occurred, and assuming ABC had insurance from 1985 to 1999, it is impossible, without a court judgement to say which policy period is exposed.

However it is clear when the claim was made – 15.2.2015, and when ABC advised their insurer – 20.2.2015.

One can only identify whether the policy covers the claim if one is clear on the basis on which cover is being given.

Most commercial property policies, personal policies such as home owners and motor policies and marine policies are on an occurrence basis. However some commercial liability policies are moving to a claims made basis. Thus it is important to carefully read the insuring clause to find out on what basis cover is being provided.

It is also important to ascertain if the notification requirements the insured is subject to have been fulfilled. For example that the insured has advised the loss within the period stated in the policy.

- iii. What is the current estimated amount of the claim? Will it be necessary to inspect the loss? Will outside experts/adjusters be required? Is it necessary to arrange repairs and/or transport for policyholders?

The amount of the claim may trigger other requirements and processes. If amounts are small, the claim may be processed with little more than basic proof of loss and amount, and organising a claim payment.

If the claim requires repairs or replacement above a certain figure, it may be necessary for the insured to provide several estimates, or use the services of the insurance company's agreed providers.

If the claim is yet larger, it may be necessary to send an inspector to examine the loss, or even appoint outside experts or adjusters.

It may equally be necessary to perform immediate emergency repairs to minimise the damage, or take other immediate measures to contain the situation.

- iv. Are third parties involved? Where does the liability for the loss appear to be – with an insured or a third party? Is subrogation a possibility? Will outside legal assistance be required?

A claim may comprise several parts, damage and/or injury to the insured, and damage and/or injury to third parties. Thus it is important to know if third parties are involved and take a view as to where the liability for the loss may be. If the insured appears liable, then what cover is afforded by the policy? Has the insured in the initial stages of the claim acted in accordance with the requirements under the policy? Is subrogation a possibility – as this aspect could reduce the liability of the insurance company significantly? If the insured is liable, or if liability can be placed on another party, is it necessary to already involve outside legal advisers?

Let's take an example to run through the above process on determining coverage.

Mr. Lodi telephones the company to say someone has driven into the back of his car, forcing him into the car in front and the cars are at the side of the road waiting for the police to arrive. Several people on the scene, including Mr. Lodi, claim they have "whiplash".

Step 1 – Identify correctly the insured, the vehicle, and the policy. Does Mr. Lodi have the policy number? Does he have the vehicle registration number? Can these facts be immediately confirmed? Even if not, it may be worth getting basic information on the loss while the claimant is at the scene of the accident.

Step 2 – Are the injured being treated if necessary? Can Mr. Lodi function properly or does he require immediate treatment. Is he in a condition to get further information? What officials are on the scene, ambulance personnel? Can Mr. Lodi get the names of personnel on the scene, the names of the drivers, the names of the injured? Is Mr. Lodi trying to complete an accident report – can he get the other drivers to agree on the description of the accident, especially the driver who went into him? Can Mr. Lodi get details of the police when they arrive?

(Is Mr. Lodi in a condition to co-operate. If not, or if this is information overload, then identifying the drivers and officials may be a priority).

Step 3 – Is Mr. Lodi's car safely driveable, or does transport need to be arranged to an approved garage (Is this transport covered by the policy – or may it be claimable from a liable third party)? Is Mr. Lodi also covered for a replacement car? Does this need to be arranged as well?

From the above it will be possible to identify the insured, the policy, its validity and subsequently the policy coverage. In being able to identify the type of coverage, it will be possible to know if Mr. Lodi has third party coverage, or comprehensive coverage and if there are any additional coverages such as a replacement vehicle. It will also be important to identify if there are any excesses under the policy which Mr. Lodi must pay himself.

6.2 A review of the important aspects to determine coverage under a reinsurance contract

The determination of coverage under a reinsurance contract is more varied depending on type of cover and circumstance.

For example under a proportional treaty claims are generally cumulated and presented as one total in the quarterly or half-yearly accounts. It is possible to check the details by inspecting the records at the ceding company, but generally a relationship of trust exists between the parties, and the total of claims is accepted at face value.

However it may be that the cedant requests a cash loss payment, and the treaty wording will then specify under what circumstances a cash loss can be requested, and what information must be provided. A reinsurer may then check the details before arranging payment. For example, the cash clause might read as follows:

Cash loss limit:

\$ 500,000 and above for 100% to the Treaty, subject to deduction of balances outstanding as per the Set-off Clause. Full policy copy and all assessors' reports to be provided to the Leading Reinsurer. Cash loss request to provide start and end date of policies.

If the reinsurer receives a cash loss request for an amount for 100% which is less than \$ 500,000, or the full policy copy or other documents are missing, then it may request the missing documents or refuse to advance an amount below the limit stipulated in the treaty.

Claims under facultative reinsurances will be similar to claims as between an insurance company and its insured. However it will depend on the level of claims co-operation as to how much detail the reinsurer will receive and what input it may have in settling the loss. Certainly the gathering of information will be at the ceding company level, as it is the ceding company that is the contractual party with the insured. If the reinsurance contract is on a follow the fortunes basis, the reinsurer may only receive a summary – although it always has the right to full claims information.

As regards proportional business, a reinsurer may require proof that the risk was ceded to the treaty, this is usually sufficient evidence that the risk is covered by the treaty, although excluded risks may mistakenly be ceded, or claims under facultative contracts either falsely made or mistakenly agreed at insurer level.

If the risk is facultative, then the original policy details should correspond with the details in the facultative slip/contract, while under a proportional treaty, the risk needs to fall within the scope of the cover (and outside the ex-

clusion list).

It is also important that the claim should only be paid in the same proportion that the risk was ceded. If the reinsurer has received 10% of the risk, and 10% of the premium, then it pays 10% of the claim.

Under non-proportional treaties the situation is different.

Under a per risk cover the reinsurer will be dealing with individual losses – again similar to a facultative reinsurance, except that there is a deductible and a limit rather than a percentage share of the risk. The scope of the treaty and the exclusion list will generally dictate whether the risk was in the portfolio being covered, and outside the exclusion list.

For example, an exclusion list might look as follows:

Exclusions:

1. War, Civil War, Political Risk and Terrorism Exclusion Clause.
2. Nuclear Energy Risks Exclusion Clause (Reinsurance) (1994) (Worldwide excluding U.S.A. and Canada) - NMA 1975A.
3. Nuclear Causes Exclusion Clause.
4. Radioactive Exclusion Cause (Reinsurance).
5. Terrorism Exclusion Clause for Contamination and Explosives.
6. Computer Loss General Exclusion Clause.
7. Electronic Data Recognition Clause EDRC (B).
8. Computer Virus and online risks “Clarification Agreement”.
9. Institute Chemical, Biological, Bio-Chemical, Electromagnetic Weapons and Cyber Attack Exclusion Clause.
10. Transmission and Distribution Lines Exclusion Clause.
11. Pollution and Contamination Exclusion Clause.
12. Asbestos Exclusion Clause.

Any claim involving one of the risks above would be excluded.

Under an event cover, the number of risks involved may be larger or smaller depending on the type of event, and generally the reinsurer will place a lot of confidence in the cedant that the risks have been correctly ceded and apportioned to reach the total loss being claimed under the cover. Thus there might be 20 industrial policies of various sums insured all affected by a major windstorm. Some may have been ceded to a quota share or surplus reinsurance programme, and it would be necessary to calculate the net amount retained by the cedant.

Having established the net amount under each, then further amounts might be covered under the per risk covers. It would only be the net net amounts of the claims that would be totalled to determine any recoveries under the event cover.

Under a stop loss cover it is the aggregate of claims falling in the portfolio that has been covered that need to be taken into account, and once again the reinsurer will place a lot of confidence on the cedant that both premiums and losses have been correctly accounted for to reach the resulting loss ratio.

Apart from scope of cover and the exclusion list, non-proportional treaties (excluding stop loss treaties) can also have other clauses that can affect claims such as reinstatement clauses, index clauses, currency clauses, hours clauses, and claim co-operation clauses, and it may be that these clauses need to be taken into account and the calculations checked.

a. Reinstatement

Most excess of loss treaties either on a per risk basis or a per event basis have limited reinstatements. That is to say if, for example, the cover is 100,000 excess of 50,000, once there have been losses exceeding the deductible (50,000) whether partial or for the full limit (100,000) when the cover would be exhausted, the cover then requires reinstatement. Thus on a per risk or event basis, the cedant needs to consider how many times the excess cover might be needed.

The reinsurer will charge additional premium if the cedant wishes to buy reinstatement options. On a low level motor excess of loss where both the cedant and the reinsurer expect a lot of claims the pricing may already include a number of reinstatements, but for a high level catastrophe cover where the expectation is that it will only be hit every 100 years or more, only one reinstatement may be available and it will likely be at 100% additional premium.

Where the rate is 1% of net premium income, every reinstatement adds 1% to the loss ratio, where it is 10% it adds 10%, which can be a significant amount when a major loss has already occurred. When a cedant is reviewing the “benefit” it gets from its reinsurance programme, it always needs to take account of the cost of reinstatement premiums and deduct these from the payments it expects from the reinsurers. Some cedants consider buying “reinstatement covers”, which is a reinsurance purchased to pay for the reinstatement premiums due under certain defined excess of loss covers in the event they become exhausted through claims. These covers can be expensive, but if a cedant has run out of cover and needs to buy more cover during an annual period, generally pricing will be high as the cedant has very little room for negotiation.

An example of a reinstatement clause is as follows:

Reinstatement Clause

In the event of the whole or any portion of the indemnity provided under this Agreement being exhausted, the amount so exhausted shall be automatically reinstated from the time of the loss occurrence to the expiry of this Agreement subject to payment of an additional premium calculated on the basis stated under REINSTATEMENTS in the Contractual Details. Such additional premium to be paid at the time the loss settlement is made.

Nevertheless, the Reinsurer's liability shall not exceed the limit of this Agreement as specified in the Contractual Details of this Agreement with respect to any one loss occurrence nor more than the amount as specified in the Contractual Details of this Agreement under REINSTATEMENTS (Limit in all) with respect to all losses arising during the term of the Agreement.

If a loss settlement that gives rise to reinstatement is made prior to the adjustment of the Minimum and Deposit Premium the reinstatement premium shall be provisionally calculated on such Minimum and Deposit Premium, and adjusted when the final adjusted premium figures are available.

Losses shall be considered in date order of their occurrence.

REINSTATEMENTS in the Contractual Details:

One full reinstatement at 100% Additional Premium as to time, pro rata to amount of indemnity only on the final adjusted premium hereon.

(Reinstatement Premium shall be calculated at pro rata of the annual premium as respects the fraction of indemnity exhausted regardless of the unexpired term of this Agreement).

Limit in all: \$ 2,500,000.

b. Index clauses

The purpose of an index clause is to share the “cost” of inflation between the cedant and the reinsurer. Without such a clause the “cost” of inflation usually falls on the reinsurer. For example, the cedant has an excess of loss cover for 100,000 excess of 50,000. There is a claim for 75,000. This claim is disputed for a number of years, and is only finally settled 6 years later. Due only to high inflation the claim then reaches a value of 100,000. In such a case the cedant is still only liable for 50,000, but whereas at the time of the loss the reinsurer was only liable for 25,000 (75,000-50,000), it is now liable for 50,000 (100,000-50,000), so it has suffered the full “cost” of the high inflation.

Through the use of index clauses, both the priority and the cover are adjusted to take account of inflation, thus in the above example, the priority might move up to say 65,000, thus the reinsurer’s cost is reduced from 50,000 to 35,000.

Thus, especially where long tail business is concerned, the cedant needs to take account of the existence of an index clause, as this can have a material impact on the amount the reinsurer will eventually pay, and the additional amount of loss which the cedant itself will be liable for.

An example of an index clause is as follows:

INDEX CLAUSE:

It is the intention of this Agreement that the Indemnity and the Deductible shall retain their relative monetary value which existed at the date specified in the Schedule and such relative monetary value shall be deemed to be based on the index (specified hereafter) applying at such date (hereinafter called the base index).

In respect of any loss settlement(s) made under this Agreement the Reinsured shall submit a list of payments comprising such loss settlement(s) showing the amount(s) paid and the date(s) of payment. Each payment (including legal costs) to one victim in respect of a bodily injury claim, excluding continuing regular payments, shall be included and the index at date of payment as defined below shall be that applying at the time that each payment for compensatory damages is made. The amount of each such payment shall be adjusted to its relative value at the date specified in the Schedule by means of the following formula:-

$$\frac{\text{Amount of Payment} \times \text{Base Index.}}{\text{Index at date of payment.}} = \text{Adjusted Payment Value.}$$

If the index at date of payment does not exceed the base index by 10%, the amount of payment shall be used as the Adjusted Payment Value for the amount.

All actual payments and adjusted payment values shall be separately totalled and the Indemnity and the Deductible shall then be multiplied by the fraction:-

$$\frac{\text{Total of Actual Payments.}}{\text{Total of Adjusted Payment Values.}}$$

Definitions.

(a) Index:

(i) In respect of an award resulting in continuing regular payments, the index or indices to be applied shall be that to which such award is linked and for all other payments the index to be applied shall be that for the territory in which the claim is made as shown under the heading «Consumer Prices» in the monthly «International Financial Statistics» published by the International Monetary Fund.

If this publication does not contain a Consumer Prices index for the territory concerned, then the index to be applied shall be that for Wage Rates or Earnings, or an alternative I.M.F. index to be agreed between the parties hereto.

If this publication does not contain any indices or any mutually acceptable indices for the territory

concerned, then an alternative publication shall be mutually agreed between the parties hereto.

(ii) *The base index for each loss settlement shall be the latest available index appearing in the edition specified in the Schedule of the appropriate publication specified in Section (i) above.*

(iii) *The index at date of payment shall be the latest available index appearing in the edition of the publication for the month in which payment is made and/or the index at the date of the first continuing regular payment and subsequently as used in any adjustment thereof.*

(b) *The date of payment shall be deemed to be as follows:-*

(i) *Where no award is made by the Courts the actual date upon which settlement is agreed by the Reinsured.*

(ii) *The date an award is made by a Court (if no Appeal is made).*

(iii) *The date an award is made by the Appeal Court if the case goes to Appeal. However, in the event that the Appeal Court reduces the damages awarded by the Lower Court, other than changes in the apportionment of liability, then Section (ii) above shall apply.*

(iv) *The date from which continuing regular payments commence or in the event that such payments are adjusted the date from which such adjustment takes effect.*

c. Currency fluctuation

Currency fluctuation can have several effects on a reinsurance programme.

For example, if a treaty has cash deposits, and the reinsurer is in a country with a strong currency, and the cedant is in a country with a weak currency, the reinsurer may require 10,000 of its currency to fund a cash deposit of 50,000 of the cedant's currency. At the end of the period, the rate of exchange is no longer 1:5, but 1:10. In this case while the reinsurer is credited in the cedant's currency with 50,000, it only gets back 5,000 in the reinsurer's currency, it has thus lost 5,000 due to the weakening of the cedant's currency. This can result in the technical results of a treaty being positive, yet the financial results for the reinsurer are a loss!

Another impact can be where the cedant has claims payable in a foreign currency. If say the cedant has a cover for 100,000 excess of 50,000, and there is a loss in a foreign currency of 120,000. If the rate of exchange at the time the treaty was concluded was 1:2, then the loss would be 60,000 in the currency of the cedant, and the reinsurer would have to pay 10,000 (60,000-50,000). If however, since the time the treaty was concluded, the rate of exchange has weakened to 1:3, now the loss is only 40,000, and the cedant must pay the full loss itself.

This issue can, of course, depending on the currency fluctuation, work to the benefit or the loss of the cedant, and similarly for the reinsurer. The purpose of a currency fluctuation clause is to adjust both the priority and the limit of the treaty such that the claim is paid by both parties, the cedant and the reinsurer, as if this fluctuation had not happened.

An example of a currency conversion clause is as follows:

CURRENCY CONVERSION CLAUSE

- *Currency*

The Contract and settlement currencies are specified in the Contractual Details.

- *Rates of Exchange*

For the purpose of this Agreement currencies other than the currency in which this Agreement is written shall be converted into such currency at the rate of exchange used in the Reinsured's books. Where there is a specific remittance for a loss settlement, the conversion will be at the rate of exchange ruling on the date upon which settlement is effected.

d. Hours clause

As noted at the beginning of this course, the cedant's policyholders could suffer an earthquake that at the first shock does damage. Then three hours later there is a serious aftershock which does further damage, and two hours later there is another serious aftershock which does even further damage. Eight hours later there is another serious aftershock that does even more damage, and finally two days later there is a final aftershock that does further damage. Is this one event or is this five events? As it was impossible to have loss adjusters on the scene so quickly, is it possible to determine what damage was done by what event? A similar issue can apply with a storm or repetitive floods.

An "hours clause" in a contract gives the cedant the opportunity to pick an agreed time span – usually somewhere between 48 hours and 120 hours, and choose a start time at the beginning or during the event which optimises the cover and allows it to recover the maximum amount from reinsurers. Once again it is important that the cedant has properly reviewed what events could occur, and how long they might last, so it is in a good position to negotiate with reinsurers the cover it needs.

An example of an hours clause is as follows:

HOURS CLAUSE

The words «loss occurrence» shall mean all individual losses arising out of and occasioned by one event. However, the duration and extent of any «loss occurrence» so defined shall be limited to:

72 consecutive hours as regards hurricane, typhoon, windstorm, rainstorm, hailstorm and/or tornado

72 consecutive hours as regards earthquake, seaquake, tidal wave and/or volcanic eruption

72 consecutive hours and within the limits of one City, Town or Village as regards riots, strikes, civil commotions and malicious damage

168 consecutive hours for any other Insured Peril

and no individual loss from whatever Insured Peril which occurs outside these periods or areas, shall be included in that «loss occurrence».

The Reinsured may choose the date and time when any such period of consecutive hours commences and if any event is of greater duration than the above periods, and subject to the application of any reinstatement provisions contained herein, the Reinsured may divide that event into two or more «loss occurrences», provided no two periods overlap and provided no period commences earlier than the date and time of the happening of the first recorded individual loss to the Reinsured in that event.

e. Claims co-operation and ex gratia claims

A reinsurance cover is only useful if recoveries can be made when valid losses occur. It is thus vital that any claims co-operation demands made by reinsurers are followed precisely. The cedant's very existence may depend upon it! Equally if the cedant feels there may be occasions, based on past experience, where ex gratia claims may be necessary, then it should discuss this aspect with prospective reinsurers when negotiating the cover. If the cedant will benefit here from flexible reinsurers, then it should choose this type of reinsurer to be on its programme.

An example of a claims cooperation clause:

CLAIMS COOPERATION

The Reinsured shall report as soon as possible all claims for losses estimated to amount to 75% or more of the un-

derlying loss for this Agreement.

The Reinsured shall keep the Reinsurers informed of all significant developments relating to such claims. The Reinsurers shall if they wish be entitled to participate consultatively in the settlement of claims and in the estimation of loss reserves.

The Reinsured shall furnish the Reinsurers with such documents and papers as they may require in connection with any loss in which the Reinsurers may be interested hereunder.

The Reinsured shall furnish to the Reinsurers at the end of each year a list of any unsettled claims of which they are aware, and which may cause a claim under the Agreement together with an estimate of liability.

In the above clause the reinsured is obliged to advise the reinsurer where a claim could reach or exceed 75% of the deductible. The percentage amount can of course vary, and is subject to negotiation. The reason why the amount could be 25% or more below the deductible is because claims can take months or years to settle, and during this period inflation or simply aggravation of the loss can result in amounts being much higher than the original estimate. By knowing of all claims exceeding say 75% of the deductible, the reinsurer is in a much better position to know its final liabilities.

An example of a loss settlements clause where the reinsured shall be sole judge regarding a loss INCLUDING ex gratia claims:

The Reinsured at their sole discretion and without any right on the part of the Reinsurers to interfere, shall adjust, settle and/or compromise all claims or losses, and every such adjustment, settlement and/or compromise including ex gratia payments shall be binding on the Reinsurers. The Reinsured shall likewise at their sole discretion commence, continue, defend, compromise, settle or withdraw from actions, suits or prosecutions, and generally do all such matters and things relating to any claim or loss as is their judgement may be beneficial or expedient, and all payments made and costs and expenses incurred in connection therewith other than office expenses and salaries of officials of the Reinsured shall be shared proportionately by the Reinsurers. The Reinsurers shall also share in proportion to their interest, in all amounts which shall be recovered by the Reinsured in respect of any loss.

Examples of using these clauses will be given in the sections below.



7. CLAIMS NEGOTIATION, ADJUSTMENT, LITIGATION AND PAYMENT

Learning objective: To understand the basics of negotiating, litigating and adjusting claims including payment.

Claims negotiation:

A good claims negotiator needs to understand the vastly different situations as between, for example, the risk manager of an international corporation disputing the settlement regarding the theft of stock worth \$50,000, and the small shop keeper who has lost shop, house, everything in a devastating flood or earthquake. Both require diligent handling, but the negotiation requirements will be different. The risk manager may be an experienced insurance person with standards that need to be respected, while the small shopkeeper may have little or no experience of insurance or claims handling and at the same time be incapacitated by strong emotions.

Emotions can also be very different, the difference between an old lonely widow who has just lost her beloved dog, and the irate driver who has blood on the bumper of his car.

There is also the distinction between the lawful and the unlawful. A genuine mistake by a good client versus arson at a client that was already revealing moral hazard. There should never be any negotiation with criminals!

There may also be regulatory requirements that oblige the negotiator to keep within certain timeframes as regards policyholders, just as those same timeframes may put pressure on the negotiator to receive prompt payment from reinsurers.

International claims also introduce complexity, with further regulations and laws to consider, possibly also sanctions and a completely different cultural and moral landscape.

The famous writer George Bernard Shaw once wrote: 'England and America are two countries divided by a common language'. When having to deal with negotiations where the language of the discussion may be a second language for both parties, one can understand how easily misunderstandings can arise.

Finally there is no substitute for good preparation before commencing negotiations. Am I fully aware of all the parameters of this negotiation – legal and regulatory requirements, the law, the details of the claim, the details of the contract, the situation of the other negotiating party, points I am willing to give, points I could give, and the line where no further negotiation will be possible?

Claims adjustment, litigation and payment:

Claims adjustment is the process of assessing the validity of any coverage, any legal liability of the insured or third parties, and finally settling the loss. Once again there will likely be regulatory and compliance issues that limit the flexibility of the adjuster. There may also be contractual requirements that limit ex gratia settlements, or require the involvement of reinsurers or other parties in the adjustment process. It may not be possible to claim from reinsurers without either a court judgement or their express written permission to agree a compromise.

Finding common ground between all the parties involved may be time consuming and frustrating.

Process has been described in section 6 above. The dealing with legal liabilities and third parties will be discussed here.

A third party may be an individual or a company outside of the insurance company in question. The process could be described as follows:

- Initial contact with the third party
 - Identification of the third party.
 - ◇ Individual
 - ◇ Company

- ◇ Legal firm representing the third party
- Identification of the insured, contract or other information necessary to identify possible involvement of the insurance company.
 - ◇ Establish the existence of a contract which may align with the details provided.
 - ◇ Establish that coverage under the policy could apply to the details of loss provided.
- Open file.
- Require all information in writing.
- Contact the insured, if the insured has not already informed the company there could be an issue.
- Once sufficient information has been obtained, is the claim probably covered under the policy?
 - If the claim is probably covered.
 - ◇ Acknowledge the claim and inform the third party and the insured that the company will respond.
 - ◇ Is it necessary to inform reinsurers or act on a claims co-operation clause?
 - ◇ Need to decide if the claim should be defended and instruct legal counsel accordingly. Is there a duty to defend? What is the situation under the policy with regard to legal costs?
 - ◇ Decide on communication/negotiation process – via legal counsel or direct?
 - ◇ Can a settlement be achieved?
 - ◇ Option of settlement and close file or litigation - mediation/arbitration/court.
 - If the claim is probably not covered.
 - ◇ Acknowledge the communication and inform the third party and the insured that the company will reserve its rights.
 - ◇ Review coverage and take legal advice as necessary.
 - ◇ If the claim remains probably not covered, inform the third party and the insured.
 - ◇ If the denial is not accepted, can the situation be resolved? If not prepare for litigation - mediation/arbitration/court. Once again it may be necessary to involve reinsurers at this stage.
- Litigation, judgement, costs assessed.
 - If the result is favourable to the insurance company.
 - ◇ Collection of judgement or award, or decision.
 - ◇ Recovery of costs, if these are recoverable.
 - ◇ Inform reinsurers as necessary.
 - ◇ Close file, release any reserves set up.
 - If the result is not favourable to the insurance company.
 - ◇ Collection of judgement or award, or decision.
 - ◇ Inform reinsurers as necessary.
 - ◇ Payment of amounts included in the judgement.
 - ◇ Collect payments from reinsurers.
 - ◇ Close file, release any reserves set up.



8. PROCESSING NON-COMPLEX PROPERTY CLAIMS

Learning objective: To be familiar with the processing of non-complex property claims.

8.1 Insurance aspects

The basic process of dealing with a claim has been described in 5 above, and we will now go through that process with a non-complex property claim.

This example is based on the Standard Property Policy No: CP 00 99 06 07, copyright of ISO Properties, Inc. 2007 which may be downloaded from the internet by giving the reference number above or via the LSI online course for this subject - refer appendix D.

The Light Engineering Company (LEC) has purchased the above policy from 1.9.2015. The sum insured is \$5,000,000, and the policy number is INTR0009523. On 15.8.2016 LEC advise their insurer (Intrepid) of a loss.

We will now go through the process described in 5 above:

- The initial contact with the claimant:
 - LEC telephone Intrepid (Mrs. Ida) to advise the loss.
 - ◇ Mrs. Ida opens a claims record.
 - ◇ Mrs. Ida asks LEC if they are the insured, which they confirm and they provide the address of the premises and the policy reference INTR0009523. They describe the circumstances of the loss – the sprinkler system has sprung a leak and damaged stock worth \$50,000.
 - ◇ Mrs. Ida checks the system and verifies that LEC are indeed a client and are insured at the address stated under policy reference INTR0009523. The premium has been paid and the policy is current. She puts a note in the file regarding the loss information supplied. She reminds LEC of their obligations as an insured under clause G3 (E1) of the policy, and asks LEC to complete and sign a claim form and to provide proof of value of the loss.
 - » Subsequent to the call, she checks the proposal form originally completed by LEC and the survey report, and notes that the sprinkler system was in good condition and there were no requirements to be completed at that time. There is thus no divergence from the material facts supplied at the time of accepting the risk.
 - » LEC are considered a good client, and a good moral hazard risk. There is no suspicion of fraud.
- Mrs. Ida checks the policy to decide if the claim is valid.
 - She notes on page 4 of the policy under k

Quote:

The following Covered Cause of Loss does not apply unless Sprinkler Leakage is indicated by an «X» in the Declarations:

k. Sprinkler Leakage, meaning leakage or discharge of any substance from an Automatic Sprinkler System, including collapse of a tank that is part of the system.

Unquote

... that sprinkler leakage is a covered cause of loss (the sprinkler leakage is also indicated by an “X” in the declarations).

She notes on page 1 under b (3) that stock is covered.

Quote:

b. Your Business Personal Property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises, consisting of the following unless otherwise specified in the Declarations or on the Your Business Personal Property – Separation Of Coverage form:

- (1) Furniture and fixtures;*
- (2) Machinery and equipment;*
- (3) «Stock»;*

Unquote.

She is thus satisfied that subject to receiving any information to the contrary, it appears the claim is covered under the policy.

- ◇ Mrs. Ida sets up a first estimate of loss of \$50,000 and a reserve of \$55,000 as it may be necessary to remove and dispose of the damaged stock.
 - ◇ Mrs. Ida considers that:
 - » There may be subrogation rights against the installer of the sprinkler system – this aspect needs to be considered.
 - » There is no excess or deductible payable by the insured.
 - » Given the sum insured of \$5,000,000 there is no need to consider underinsurance, but if an inspector is sent out to consider the subrogation aspect, he can also verify the sum insured amount.
 - » There is no sub-limit in the policy.
 - ◇ The amount is below any reinsurance covers.
- Is there sufficient information to settle the loss?
- Mrs. Ida considers that if the claim form received is in order and there is a robust proof of loss, the only requirement is to send out an inspector to establish if there is any possibility of subrogation against the installer of the sprinkler system. If there is any indication of underinsurance, then Mrs. Ida will need to consider that aspect as well. However the claim is relatively straight-forward.
- Mrs. Ida follows strictly the time requirements for communicating with the insured.

8.2 Reinsurance aspects

The basic process of dealing with a reinsurance claim has been described in 5 above, and we will now go through that process with a non-complex reinsurance property claim.

This example is based on the Africa Re Fire and Allied Perils Catastrophe Excess of Loss wording which is attached as Appendix B.

Intrepid have suffered a major weather loss and advise their reinsurers as follows:

INSURED: Various

TREATY: CATASTROPHE EXCESS OF LOSS – All layers

We regret to advise that we have incurred substantial losses in our domestic property account following the passage of Cyclone David in Nigeria, which occurred between 15th February and the 22nd February 2013.

Based on the following loss schedule we would request settlement from reinsurers as set out below:

<i>Date of loss</i>	<i>Amount</i>
<i>15.02.2013</i>	<i>\$ 25,000</i>
<i>16.02.2013</i>	<i>\$ 250,000</i>
<i>17.02.2013</i>	<i>\$ 150,000</i>
<i>18.02.2013</i>	<i>\$ 650,000</i>
<i>19.02.2013</i>	<i>\$ 225,000</i>
<i>20.02.2013</i>	<i>\$ 50,000</i>
<i>21.02.2013</i>	<i>\$ 25,000</i>
<i>22.02.2013</i>	<i>\$ 10,000</i>
<i>TOTAL PAYMENTS</i>	<i>\$ 1,385,000 (for our retained share).</i>

Based on the 72 hours clause we have chosen the period 16.02.2013 to 18.02.2013, giving a loss of \$1,050,000 for our retained share.

We therefore look forward to receiving your remittance shortly.

Mr. Good works at Reliance and he goes through the following process:

- The initial contact from the ceding company:
 - Receipt of the above communication from Intrepid.
 - ◊ Mr Good establishes a claims record.
 - ◊ Mr. Good checks the company's records and finds Reliance have a contract with Intrepid in 4 layers – refer Appendix B. (For ease of example, the four layers are converted into \$ as follows:
 - Layer 1 - \$33,000 xs \$17,000
 - Layer 2 - \$110,000 xs \$50,000
 - Layer 3 - \$315,000 xs \$160,000
 - Layer 4 - \$1,110,000 xs \$475,000)
 - » Mr. Good checks **clause 2** (refer Appendix B) and notes that the loss falls within the period of the contract.
 - » Mr. Good checks **clause 4a** (refer Appendix B) of the contract and notes Cyclone is covered.
 - » Mr. Good checks **clause 6** (refer Appendix B) and notes that the claims fall within the territorial scope.
 - » Mr. Good checks **clause 8** (refer Appendix B) and notes Reliance (who have a 25% share in each layer) are liable for their share excess of a deductible of \$17,000.
 - » Mr. Good checks **clause 9** (refer Appendix B) and notes that each layer has one reinstatement, 100% as to time, pro-rata as to amount.
 - » Mr. Good checks to see if there are any exclusions that could apply, and does not find any.
 - » Mr. Good checks **article 5** (refer Appendix B) and notes that cyclones are indeed subject to a 72 consecutive hours condition.
 - » Mr. Good checks **article 13** (refer Appendix B) and notes there is a claims co-operation clause.
 - » Mr. Good briefly reviews the presentation material at the time the contract was concluded, but finds nothing to note.
- Is the claim valid?
 - There is nothing to indicate at this stage that the claim is not valid.

- If the claim is valid
 - ◇ There is sufficient information to calculate a first estimate.
 - ◇ Are there any clauses or circumstances that may reduce the amount of the loss?
 - » The contract is subject to a reinstatement premium
 - » There is an hours clause
 - » There is no sanctions issue
 - ◇ Are there any obligations to involve or advise retrocessionaires at this time? Mr. Good needs to refer to Reliance's outward contracts to see if a claim can be made on retrocessionaires, and also if retrocessionaires already need to be kept informed.
- Mr. Good prepares a calculation of the amount due taking account of reinstatement premiums that need to be deducted.
- Mr. Good sets up a reserve for the amount he calculates to be payable and writes a report to his management with a request to release payment.



9. PROCESSING NON-COMPLEX LIABILITY CLAIMS

Learning objective: To be familiar with the processing of non-complex liability claims.

9.1 Insurance aspects

The basic process of dealing with a claim has been described in 5 above, and we will now go through that process with a non-complex liability claim.

This example is based on the Commercial General Liability Coverage form No: CG 00 01 12 04, copyright of ISO Properties, Inc. 2003 which may be downloaded from the internet by giving the reference number above or via the LSI online course for this subject.

The Good Night's Sleep hotel (GNSh), 4 Mantle Close, Hometown call you as a customer who was parking in a designated parking space close to the main hotel building had her car damaged by a tile falling from the roof of the hotel. The tile must have been dislodged during the overnight storm and unfortunately hit the car damaging the bonnet. The client has gone to the garage in the morning and has a quote of \$1,000 to replace the bonnet. Details of the make and model of the car are provided.

We will now go through the process described in 5 above:

- The initial contact with the claimant:
 - GNSh telephone Intrepid (Mrs. Ida) to advise the loss.
 - ◇ Mrs. Ida opens a claims record.
 - ◇ Mrs. Ida asks GNSh if they are the insured, which they confirm and they provide the address of the premises and the policy reference INTROGL2150. They describe the circumstances of the loss – damage to a client's car bonnet costing \$1,000.
 - ◇ Mrs. Ida checks the system and verifies that GNSh are indeed a client and are insured at the address stated under policy reference INTROGL2150. The premium has been paid and the policy is current. She puts a note in the file regarding the loss information supplied. She reminds GNSh of their obligations as an insured under section IV 2. of the policy, and asks GNSh to complete and sign a claim form and to provide proof of value of the loss.
 - » Subsequent to the call, she checks the proposal form originally completed by GNSh and the survey report, and notes that the roof of the hotel was in good condition and there were no special requirements to be completed at that time. There is thus no divergence from the material facts supplied at the time of accepting the risk.
 - » GNSh are considered a good client, and a good moral hazard risk. There is no suspicion of fraud.
- Mrs. Ida checks the policy to decide if the claim is valid.
 - She reviews section 1 of the policy

Quote:

SECTION I – COVERAGES
COVERAGE A BODILY INJURY AND PROPERTY
DAMAGE LIABILITY
1. Insuring Agreement

Unquote.

(for fuller details refer Appendix E)

...and considers the claim is a covered cause of loss.

She is thus satisfied that subject to receiving any information to the contrary, it appears the claim is covered under the policy.

- ◇ Mrs. Ida sets up a first estimate of loss of \$1,000 and a reserve of \$1,000. She does not consider that any additional expenses should be incurred if the loss remains at the cost of the replacement bonnet at \$1,000.
 - ◇ Mrs. Ida considers that:
 - » There is little likelihood of any subrogation.
 - » There is no excess or deductible payable by the insured.
 - » Given the sum insured of \$2,500,000 there is no need to consider underinsurance.
 - » There is no sub-limit in the policy.
 - ◇ The amount is below the deductible of Intrepid's non-proportional programme, and below any cash loss limit under Intrepid's quota share, so there is no need to involve or advise reinsurers at this time.
- Is there sufficient information to settle the loss?
- Mrs. Ida considers that if the claim form received is in order and there is a robust proof of loss, the best course of action is simply to pay the loss. The claim is relatively straight-forward.
- Mrs. Ida follows strictly the time requirements for communicating with the insured.

9.2 Reinsurance aspects

The basic process of dealing with a reinsurance claim has been described in 5 above, and we will now go through that process with a non-complex reinsurance liability claim.

This example is based on a former wording produced by Swiss Reinsurance Company which is attached as Appendix C.

Intrepid have suffered a large loss under their combined liability excess of loss treaty and they advise their reinsurers as follows:

INSURED: Smith – claim 0043520

TREATY: Combined liability excess of loss – 1st layer

We regret to advise that we have incurred a substantial loss in our domestic motor account when our insured, who drives a commercial goods lorry reversed into a legally parked Rolls Royce causing serious damage to the front of the car. The liability of our insured has not been in doubt, but it is only this week that the size of the loss has become apparent. The loss occurred on 15th October 2016 and is payable according to our timeframe in the next 10 days.

We attach the repair costs from the Rolls Royce dealership and based on a ground up loss for our retained share of \$35,000, we look forward to receiving 90% of \$10,000 shortly.

Please advise us if you require further information.

Mr. Good works at Reliance and he goes through the following process:

- The initial contact from the ceding company:
 - Receipt of the above communication from Intrepid.
 - ◇ Mr Good establishes a claims record.
 - ◇ Mr. Good checks the company's records and finds Reliance have a contract with Intrepid in 4 layers – refer Appendix 3.
 - Layer 1 - \$25,000 xs \$25,000.
 - Layer 2 - \$50,000 xs \$50,000.
 - Layer 3 - \$100,000 xs \$100,000.
 - Layer 4 - \$unlimited xs \$200,000.

- » Mr. Good checks the contract schedule and notes that:
 - Article 1 - the loss falls within the period of the contract.
 - Article 1 – Motor third party property damage is covered.
 - Article 1 – The claim falls within the territorial scope.
 - Article 4 – there is a 1st layer deductible of \$25,000.
 - Article 4 – there is a co-reinsurance of 10% in all layers.
 - » Mr. Good checks attachment 1- Claims co-operation, and considers the clause has been complied with.
 - » Mr. Good briefly reviews the presentation material at the time the contract was concluded, but finds nothing to note.
- Is the claim valid?
 - There is nothing to indicate at this stage that the claim is not valid.
 - If the claim is valid.
 - ◇ There is sufficient information to calculate a first estimate.
 - ◇ Are there any clauses or circumstances that may reduce the amount of the loss?
 - » There is a co-reinsurance of 10%.
 - » There is no sanctions issue.
 - ◇ Are there any obligations to involve or advise retrocessionaires at this time? Mr. Good needs to refer to Reliance's outward contracts to see if a claim can be made on retrocessionaires, and also if retrocessionaires already need to be kept informed.
 - Mr. Good prepares a calculation of the amount due taking account of the 10% co-reinsurance.
 - Mr. Good sets up a reserve for the amount he calculates to be payable and writes a report to his management with a request to release payment.



10. DEALING WITH COMPLAINTS AND BAD FAITH ACCUSATIONS

Learning objective: To be able to deal with complaints and bad faith accusations.

In the UK, the Financial Conduct Authority (FCA), like the Financial Services Authority which it has replaced, has promoted the concept of Fair Treatment of Customers.

Quote:

Consumer outcomes

There are six consumer outcomes that firms should strive to achieve to ensure fair treatment of customers. These remain core to what we expect of firms.

Outcome 1: Consumers can be confident they are dealing with firms where the fair treatment of customers is central to the corporate culture.

Outcome 2: Products and services marketed and sold in the retail market are designed to meet the needs of identified consumer groups and are targeted accordingly.

Outcome 3: Consumers are provided with clear information and are kept appropriately informed before, during and after the point of sale.

Outcome 4: Where consumers receive advice, the advice is suitable and takes account of their circumstances.

Outcome 5: Consumers are provided with products that perform as firms have led them to expect, and the associated service is of an acceptable standard and as they have been led to expect.

Outcome 6: Consumers do not face unreasonable post-sale barriers imposed by firms to change product, switch provider, submit a claim or make a complaint.

Unquote.

Certainly 1, 3, 5 and 6 could be incorporated in the objectives that need to be applied in the handling of clients submitting claims.

Fair Treatment of Customers – if customers/clients do not feel they are receiving fair treatment, then they can complain to the insurance company in question or, in the UK, they can go to the Financial Ombudsman Service (FOS).

In the UK, every company authorised by the FCA must have effective internal written processes for handling client complaints, quote: Effective and transparent procedures for the reasonable and prompt handling of complaints must be established, implemented and maintained. Unquote.

In July 2015 the FCA published “Improving complaints handling, feedback”

In this policy statement, they confirmed the following new requirements for firms:

Quote:

- a. *Extending the ‘next business day rule’, where firms are permitted to handle complaints less formally, without sending a final response letter, to the close of three business days after the date of receipt.*
- b. *Reporting all complaints, including those handled by the close of three business days after the firm re-*

ceives them.

- c. *Raising consumer awareness of the ombudsman service, by sending a 'summary resolution communication' following the resolution of complaints handled by the close of the third business day after receipt.*
- d. *Revised rules limiting the cost of calls consumers make to firms to a maximum 'basic rate', including all post-contractual calls and all complaints calls.*
- e. *Our new 'complaints return' which requires firms to send us data twice a year on the number of complaints they receive.*

Unquote.

This places quite tough time constraints on firms to deal with complaints and also obliges them to inform their clients about the services of the FOS.

While doubtless some clients will complain even if a service is perfect, there must be a very strong motivation to reduce complaints to a minimum by providing an excellent service. Equally the complaints process must be even smoother and timelier than the claims process, to ensure that reasonable customers do not complain about both to the FOS.

The words "Bad Faith" are used quite commonly in insurance terminology, although in fact, bad faith in legal terms is a tort claim probably unique to the law of the United States where an insured person can accuse an insurance company that it has acted badly.

Essentially the correct and efficient handling of complaints must respect:

- a. Any local regulatory timelines and requirements.
- b. Must have clear rules as to the manner in which an initial complaint is received and responded to.
- c. A timely investigation including a swift process through any management hierarchy, to ensure any further input or sign-offs can be handled quickly.
- d. Where necessary keep the appropriate regulatory authority appropriately informed.



11. OUTSOURCING

Learning objective: To be able to review outsourcing needs.

11.1 Insurance aspects

One important factor with outsourcing, is that while it may be possible to outsource a number of activities, the regulatory requirements cannot usually be delegated, and the insurance company remains liable to the regulatory authority for performance.

Outsourcing has had mixed reviews and there are examples where it can work well – for example outsourcing medical claims to providers with a good track record, and other examples where lack of a proven track record and total underestimation of the work involved has led to disaster.

Certain Lloyd's syndicates have outsourced motor claims successfully – a typical situation whereby smaller organisations can group their needs together and reach economies of scale and a much better result for the insured.

The vast majority of US firms use outsourcing in one form or another, whether it be human resources, or payroll, or accounting or distribution, and it is likely it will be a form of organisation more prevalent in the future. Even using the resources of reinsurers to quote more complex risks, or to introduce or expand certain lines of business could be seen as a form of outsourcing.

The distribution of insurance products via a broker is also a form of outsourcing marketing and production.

The issue with claims is that, more than any other activity, poor claims handling can quickly tarnish the reputation of the insurance company and create serious issues with the regulator, and for this reason very special care needs to be taken when considering outsourcing in this area.

However it is worth remembering that, depending on the amount of reinsurance purchased, a lot of an insurance company's ability to pay a claim rests on the timely performance of its reinsurers, thus, like it or not, many insurance companies are already relying considerably on the performance of organisations outside of their direct control.

Essentially an insurance company is made up of capital, risk expertise, and licences to write business. With a number of investors looking to expand their portfolios, there is also the prospect of insurance companies offering outsourcing services to entrepreneurs who are looking for risk expertise and licences to write business. Fronting is already a form of outsourcing where insurance companies offer the licences they have to write business to captives who need those licences to cover business in territories where they themselves have no licence.

Outsourcing can be a two way business.

11.2 Reinsurance aspects

With the new wave of insurance linked securities and hedge funds offering a variety of capacities, outsourcing has certainly become a two-way business for reinsurers.

A number of reinsurers have offered their underwriting services to hedge funds and licences to issue paper on behalf of hedge funds, and this has been a win-win situation for both parties.

Given the savings that can result in overhead costs from such an arrangement, there will likely be pressure on traditional reinsurance companies to review their form of organisation.

Equally given that reinsurers often work in a number of countries or, if they work only locally, they have a lean staff, pooling certain services can only make economic sense.

11.3 Reviewing outsourcing needs:

- a. What activities could be outsourced?
- b. What activities need to be outsourced (Lack of knowledge base)?
- c. Is it possible to reorganise to reduce these needs?
- d. Are there proven service providers for our needs at an economic price?
- e. The advantages and disadvantages: Scope, costs, benefits, existence of a shared culture, potential for growth?



12.CASE STUDY

Working with index clauses.

A typical index clause reads as follows:

INDEX CLAUSE:

It is the intention of this Agreement that the Indemnity and the Deductible shall retain their relative monetary value which existed at the date specified in the Schedule and such relative monetary value shall be deemed to be based on the index (specified hereafter) applying at such date (hereinafter called the base index).

In respect of any loss settlement(s) made under this Agreement the Reinsured shall submit a list of payments comprising such loss settlement(s) showing the amount(s) paid and the date(s) of payment. Each payment (including legal costs) to one victim in respect of a bodily injury claim, excluding continuing regular payments, shall be included and the index at date of payment as defined below shall be that applying at the time that each payment for compensatory damages is made. The amount of each such payment shall be adjusted to its relative value at the date specified in the Schedule by means of the following formula:-

$$\frac{\text{Amount of Payment} \times \text{Base Index}}{\text{Index at date of payment}} = \text{Adjusted Payment Value}$$

If the index at date of payment does not exceed the base index by 10%, the amount of payment shall be used as the Adjusted Payment Value for the amount.

All actual payments and adjusted payment values shall be separately totalled and the Indemnity and the Deductible shall then be multiplied by the fraction:-

$$\frac{\text{Total of Actual Payments}}{\text{Total of Adjusted Payment Values}}$$

Definitions.

(a) *Index:*

(i) *In respect of an award resulting in continuing regular payments, the index or indices to be applied shall be that to which such award is linked and for all other payments the index to be applied shall be that for the territory in which the claim is made as shown under the heading «Consumer Prices» in the monthly «International Financial Statistics» published by the International Monetary Fund.*

If this publication does not contain a Consumer Prices index for the territory concerned, then the index to be applied shall be that for Wage Rates or Earnings, or an alternative I.M.F. index to be agreed between the parties hereto.

If this publication does not contain any indices or any mutually acceptable indices for the territory concerned, then an alternative publication shall be mutually agreed between the parties hereto.

(ii) *The base index for each loss settlement shall be the latest available index appearing in the edition specified in the Schedule of the appropriate publication specified in Section (i) above.*

(iii) *The index at date of payment shall be the latest available index appearing in the edition of the publication for the month in which payment is made and/or the index at the date of the first continuing regular payment and subsequently as used in any adjustment thereof.*

(b) *The date of payment shall be deemed to be as follows:-*

(i) *Where no award is made by the Courts the actual date upon which settlement is agreed by*

the Reinsured.

(ii) *The date an award is made by a Court (if no Appeal is made).*

(iii) *The date an award is made by the Appeal Court if the case goes to Appeal. However, in the event that the Appeal Court reduces the damages awarded by the Lower Court, other than changes in the apportionment of liability, then Section (ii) above shall apply.*

(iv) *The date from which continuing regular payments commence or in the event that such payments are adjusted the date from which such adjustment takes effect.*

Intrepid have a motor excess of loss treaty covering their motor portfolio in Kenya. The treaty has the above index clause and it is agreed to use the CPI index of Kenya.

The index is as follows:

	2011	2012	2013	2014	2015
Jan	110.57	130.82	135.62	145.4	153.43
Feb	112.06	130.76	136.59	145.95	154.14
Mar	114.62	132.51	137.96	146.61	155.86
Apr	118.29	133.74	139.28	148.2	158.7
May	119.48	134.09	139.52	149.7	159.98
Jun	120.91	133.06	139.59	149.91	160.46
Jul	122.44	131.92	139.87	150.6	160.57
Aug	123.97	131.51	140.29	152.02	160.9
Sep	125.23	131.89	142.82	152.24	161.33
Oct	127.2	132.46	142.75	151.92	162.13
Nov	129.13	133.33	143.14	151.85	162.97
Dec	130.09	134.25	143.85	152.51	164.72

The details of Intrepid's treaty are as follows:

Cover: 750,000 xs 250,000

Inception: 1 January 2011

Index: 110.57

They have a major motor claim involving 3 claimants which settles as follows:

	<u>Actual</u>	
	<u>Payments</u>	
Passenger A		
Interim payment	20,000	Jun-11
Interim payment	50,000	Jan-13
Final payment	250,000	Jul-14
Passenger B		
Interim payment	7,500	Mar-11
Interim payment	25,000	Sep-11
Final payment	150,000	Jan-14
Passenger C		
Final payment	25,000	Sep-11
Totals	527,500	

Thus passenger A has two interim payments of 20,000 and 50,000 in June 2011 and January 2013 respectively and a final payment of 250,000 in July 2014.

Passenger B has two interim payments of 7,500 and 25,000 in March 2011 and January 2013 respectively and a final payment of 150,000 in January 2014.

Passenger C has just a final payment of 25,000 in September 2011.

Applying the index clause above, the calculations are as follows:

G	H	I	J	K	L	M	N	O	P
1	Motor liability excess of loss			750000	xs	250,000			
2	Index at inception 1 Jan 2011			110.57	+10% =	121.627			
3									
4	Major motor claim involving 3 claimants settles as follows:								
5			<u>Actual</u>					<u>Adjusted</u>	
6			<u>Payments</u>					<u>Payments</u>	
7	Passenger A								
8	Interim payment		20,000	Jun-11	120.91	Revalued amount		20,000.00	Index<10%
9	Interim payment		50,000	Jan-13	135.62			40,764.64	J9*(K2/L9)
10	Final payment		250,000	Jul-14	150.6			183,549.14	
11									
12	Passenger B								
13	Interim payment		7,500	Mar-11	114.62			7,500.00	Index<10%
14	Interim payment		25,000	Sep-11	125.23			22,073.38	
15	Final payment		150,000	Jan-14	145.4			114,068.09	
16									
17	Passenger C								
18	Final payment		25,000	Sep-11	125.23			22,073.38	
19									
20	Totals		527,500					410,029	
21									
22	Adjustment of deductible			321,623.88	M1*(J20/O20)				
23	Adjustment of cover			964,871.65					
24									
25	Amount payable by reinsurers			205,876.12	J20-K22				

It should be noted:

1. The first payment to passengers A and B occur when the index is not exceeding 10% of the base index, thus the payments are not adjusted.
2. All other payments are calculated according to the formula in the index as noted in cell P9.
3. The resulting totals are actual payments of 527,500 (J20) and adjusted payments of 410,029 (O20) and these figures are used to adjust the deductible and limit of the cover. The deductible becomes 321,623.88 (K22) and the cover becomes 964,871.65 (K23).
4. The actual payments are then applied to the new cover and deductible, resulting in a payment by reinsurers of 205,876.12.



13. CONCLUSION

This course has been designed to expand the knowledge base built in earlier courses and especially to enhance your understanding of claims management. The ability to correctly negotiate and adjust claims, to pay only those that fall within the cover, and to pay the right amount, all the time providing the claimant with a polite and efficient service is at the very core of what a (re)insurance company is all about.

Equally important is to follow the claim through the company and into any reinsurance or retrocession programme and to be sure all recoveries from those covers have been made and received.

It is also very important that the right processes are in place to alert management to any claim trends, so that immediate corrective action can be taken, and equally that any complaints are promptly dealt with.

Where dealing with consumers, the claims service and fair treatment of clients are at the very heart of regulation, because at the end of the day, this is what our business is about: assuring security of mind by paying claims in the event of an insured loss.



14. TEST

Multiple choice questions:

1) Which of the following statements is correct?

- a. It is only necessary to make notes of an initial claim advice once cover has been confirmed.
- b. An ombudsman is only a mediator without any real powers.
- c. The claims operation is less important in an insurance company's organization.
- d. It is good business sense to promote the claims department as the centre piece of the company's excellent service to policyholders.

2) Which of the following statements is correct?

- a. Reinsurers need to see the details on every claim.
- b. Reinsurers should treat reinsureds as if they were insureds.
- c. In proportional contracts claims details are generally only required for cash losses.
- d. Sanctions cannot override local requirements.

3) Which of the following statements is correct?

- a. The insured has no contractual obligation to assist the insurer in the event of a claim.
- b. Policies should not contain too much detail about making claims, as this may only encourage insureds to do so.
- c. Regulators may require responses to insureds within a certain timeframe.
- d. Insurable interest only has to be present at the time the policy is concluded.

4) Which of the following statements is correct?

- a. Local reinsurers are always subject to the same regulations as local insurers.
- b. Claims under a facultative cover are similar in nature to the claims under the direct policy.
- c. If third parties are involved, the claims process can only be started when the insured has provided their names.
- d. The date a loss occurred is not important, it is only the date the claim was made.

5) Which of the following statements is correct?

- a. Guidelines on claims management should only deal with relations with the consumer.
- b. It is only necessary to advise reinsurers once the insurance company has paid the claim.
- c. Subrogation rights are only relevant where a third party could be liable.
- d. Retrocessionaires always follow the fortunes of the reinsurer.

6) Which of the following statements is correct?

- a. The best way to negotiate is to take it as it comes.
- b. All claimants should be treated the same way.
- c. Reinsurers must always follow the fortunes of the ceding company.
- d. Finding common ground between all the parties involved may be time consuming and frustrating.

7) Which of the following statements is correct?

- a. In the absence of a claim co-operation clause, the reinsurer must generally follow the fortunes of the insurance company if the claim has been correctly advised.
- b. Unless there is a claims co-operation clause, the reinsurer cannot request further information.
- c. Insurers are always liable to pay a valid claim, even if the insured has not paid the premium under the terms of the policy.
- d. If the claim is not covered there is no time requirement to respond to the insured.

8) Which of the following statements is correct?

- a. Intrepid should not pay the loss of GNSh as the vehicle was unattended at the time of the accident.
- b. There is never an obligation to declare a loss to retrocessionaires if the loss is below the deductible.
- c. Reliance is obliged to pay a covered loss only once it has been paid by Intrepid.
- d. Reliance must pay a loss on request to do so.

9) Which of the following statements is correct?

- a. Every complaint must receive fair treatment.
- b. Unjustified complaints can be ignored.
- c. Timelines and requirements don't apply to rude people.
- d. Complaints can only be accepted in writing.

10) Which of the following statements is correct?

- a. Outsourcing is a sign of weakness.
- b. Outsourcing can be a win-win option.
- c. Outsourcing is rarely successful.
- d. It is not legal to outsource the claims process.



APPENDIX A

Test answers

The following statements are correct:

1. D
2. C
3. C
4. B
5. C
6. D
7. A
8. C
9. A
10. B

APPENDIX B



EXAMPLE REINSURANCE AGREEMENT

Wording in RED requires amendment depending on specific individual terms agreed

*Non Proportional Reinsurance Agreement
Fire and Allied Perils Catastrophe Excess of Loss*

CONTRACTUAL DETAILS

SLIP REINSURANCE AGREEMENT NUMBER: **ARC/FAP/CATXL/**
made and entered into between

ABC INSURANCE COMPANY LIMITED, Lagos, Nigeria,
(hereinafter called the “Reinsured”)

of the one part

and

AFRICAN REINSURANCE CORPORATION, Lagos, Nigeria,
or through its Subsidiaries and/or its Regional Offices,
(hereinafter called the “Reinsurer”)

of the other part

This **Slip Reinsurance Agreement consisting of the Contractual Details and Contractual Wording together** with all Appendices, Annexes and Addenda pertaining thereto, shall be read together as one Contract and is issued in two originals to be signed by both parties in executing this Agreement.

It is understood and agreed by the parties to this Slip Reinsurance Agreement that wherever the word “Nil” appears for any of the serially numbered section of this Slip, it will be construed as being of no effect and/or will not operate for the Agreement.

For the purpose of this Agreement, the words “Agreement”, “Contract”, Reinsurance” and “Treaty” shall have the same meaning wherever they may appear and may be interchangeable.

1. Reinsured: **ABC Insurance Company Limited, Lagos, Nigeria.**

10th Floor, 444 Presidential Road

Lagos

Nigeria

P.O. Box

E-mail:

2. Period: Losses Occurring During the period **12 months from 1st January, 2013 to**

31st December 2013, both days inclusive, Local Standard Time at the place of the loss.

The rights and obligations of both parties to this Agreement shall remain in full force until the effective date of expiry or termination after which the liability of the

Reinsurer shall cease absolutely except in respect of losses occurring during the period of this Agreement, the claims for which remain unsettled at that date

3. Type: Fire and Allied Perils Catastrophe Excess of Loss Reinsurance Agreement.

4. Class of Business: The Net Retention of the Reinsured in respect of:

All insurances whether direct or by way of coinsurance and facultative reinsurances and/or compulsory legal cessions to the Reinsured, accepted and underwritten and/or renewed by the Reinsured in its Fire Department and designated by the Reinsured as Fire business covering:

a) Material Damage and Business Interruption following the perils of:

Fire, Bush Fire, Lightning or Thunderbolt, Explosion, Non-Political Riot, Strike, Civil Commotion, and Malicious Damage, Lock-out Workers, Aircraft and aerial devices or articles dropped therefrom, Burglary and/or theft, Impact by animals trees, aerial, satellite dishes or vehicles, Bursting or Overflowing of Water Tanks or Pipes, Cyclone, Hurricane, Tornado, Typhoon, Earthquake, Volcanic Eruption, Subterranean Fire, Flood, Tidal Wave and Tsunami, Collapse, Subsidence, Ground Heave, and Landslide;

and including the following interests:

b) Domestic Package policies excluding motor policies;

c) Industrial All Risks and Assets All Risks policies excluding all Contractors' All Risks, Erection All Risks, Machinery Loss of Profits and Deterioration of Stock exposures but limited to 5% cover for Machinery Breakdown and Electronic Equipment.

5. Exclusions: This Agreement will not cover, among others, certain types of insurances

and reinsurances, locations, risks and perils, and properties, in respect of material damage and consequential loss resulting therefrom, specified hereafter

Exclusions as per Appendix No. 1 attached:

1. War, Civil War, Political Risk and Terrorism Exclusion Clause.
2. Nuclear Energy Risks Exclusion Clause (Reinsurance) (1994) (Worldwide excluding U.S.A. and Canada) - NMA 1975A.
3. Nuclear Causes Exclusion Clause.
4. Radioactive Exclusion Cause (Reinsurance).
5. Terrorism Exclusion Clause for Contamination and Explosives.

6. Computer Loss General Exclusion Clause.
7. Electronic Data Recognition Clause EDRC (B).
8. Computer Virus and on-line risks "Clarification Agreement".
9. Institute Chemical, Biological, Bio-Chemical, Electromagnetic Weapons and Cyber Attack Exclusion Clause.
10. Transmission and Distribution Lines Exclusion Clause.
11. Pollution and Contamination Exclusion Clause.
12. Asbestos Exclusion Clause.
- 13). Supplementary Fire and Allied Perils Exclusion List as per Appendix No 2 attached.

Amendments to exclusions shall be advised in writing to and be expressly agreed by the Leading Reinsurer only.

Special Acceptances of risks excluded from the scope of this Agreement shall be Agreed by the Leading Reinsurer. Such Special Acceptances will not be documented in this Agreement wording.

However, any previously agreed Special Acceptances will be **renegotiated prior to each individual policy renewal date.**

- 6. Territorial Scope:** Risk situated in **Nigeria and Nigerian** interest abroad and incidental **Nigerian** risks Worldwide subject to prior referral to the Leading Reinsurer, but excluding risks situated in USA and Canada.
- Incidental shall mean anywhere in Africa for 100%, but for the rest of the World not exceeding 20% of the Treaty Maximum Reinsurance Cession defined under section 8. Treaty Limit hereafter.

- 7. Currency:** **Contract currency: Nigerian Naira (NGN).**
- Settlement currency: US Dollar or any other currency equivalent at the rate of exchange ruling as at the Due Date.**

8. Treaty Limit

and Deductible:

First Layer:

To pay up to a limit of **NGN 10,000,000** ultimate net loss any one loss occurrence

IN EXCESS OF

Deductible of **NGN 5,000,000** ultimate net loss any one loss occurrence.

Second Layer:

To pay up to a limit of **NGN 35,000,000** ultimate net loss any one loss occurrence

IN EXCESS OF

Deductible of **NGN 15,000,000** ultimate net loss any one loss occurrence.

Third Layer:

To pay up to a limit of **NGN 100,000,000** ultimate net loss any one loss occurrence

IN EXCESS OF

Deductible of **NGN 50,000,000** ultimate net loss any one loss occurrence.

Fourth Layer:

To pay up to a limit of **NGN 350,000,000** ultimate net loss any one loss occurrence

IN EXCESS OF

Deductible of **NGN 150,000,000** ultimate net loss any one loss occurrence.

Two Risks Warranty:

It is warranted that no claims shall be payable under this Agreement unless two or more original risks covered by the Reinsured are involved in each loss occurrence.

9. Reinstatement:

First Layer:

One full reinstatement at 100% Additional Premium as to time, pro rata to amount of indemnity only on the final adjusted premium hereon.

(Reinstatement Premium shall be calculated at pro rata of the annual premium as respects the fraction of indemnity exhausted regardless of the unexpired term of this Agreement).

Limit in all: NGN 20,000,000.

Second Layer:

One full reinstatement at 100% Additional Premium as to time, pro rata to amount of indemnity only on the final adjusted premium hereon.

(Reinstatement Premium shall be calculated at pro rata of the annual premium as respects the fraction of indemnity exhausted regardless of the unexpired term of this Agreement).

Limit in all: NGN 70,000,000.

Third Layer:

One full reinstatement at 100% Additional Premium as to time, pro rata to amount of indemnity only on the final adjusted premium hereon.

(Reinstatement Premium shall be calculated at pro rata of the annual premium as respects the fraction of indemnity exhausted regardless of the unexpired term of this Agreement).

Limit in all: NGN 200,000,000.

Fourth Layer:

One full reinstatement at 100% Additional Premium as to time, pro rata to amount of indemnity only on the final adjusted premium hereon.

(Reinstatement Premium shall be calculated at pro rata of the annual premium as respects the fraction of indemnity exhausted regardless of the unexpired term of this Agreement).

Limit in all: NGN 700,000,000.

10. Premium:

First Layer:

Adjustable within 60 days after expiry at 9.24% of the Reinsured's Original Gross Net Retained Premium Income accounted for in respect of business reinsured hereby during the period hereon, subject to a Minimum and Deposit Premium of NGN 2,577,960 payable in two equal instalments, half-yearly in advance at 1st January 2013 and 1st July 2013.

Second Layer

Adjustable within 60 days after expiry at 5.33% of the Reinsured's Original Gross Net Retained Premium Income accounted for in respect of business reinsured hereby during the period hereon, subject to a Minimum and Deposit Premium of NGN 1,480,000 payable in two equal instalments, half-yearly in advance at 1st January 2032 and 1st July 2013.

Third Layer:

Adjustable within 60 days after expiry at 9.24% of the Reinsured's Original Gross Net Retained Premium Income accounted for in respect of business reinsured hereby during the period hereon, subject to a Minimum and Deposit Premium of NGN 2,577,960 payable in two equal instalments, half-yearly in advance at 1st January 2013 and 1st July 2013.

Fourth Layer

Adjustable within 60 days after expiry at 5.33% of the Reinsured's Original Gross Net Retained Premium Income accounted for in respect of business reinsured hereby during the period hereon, subject to a Minimum and Deposit Premium of NGN 1,480,000 payable in two equal instalments, half-yearly in advance at 1st January 2013 and 1st July 2013.

The adjusting statement will be due 60 days **after 31st December 2013** on a "cheque attached basis".

Definition Of Gross Net Retained Premium Income

The term "Gross Net Premium Income" shall be understood to mean gross premiums less only return premiums and cancellations and premiums paid for Reinsurance, recoveries under which inure to the benefit of the Reinsurers hereon.

11. Premium Warranty:

The premium must be paid to and in possession of Reinsurer within **45 days** after the due date, failing which the cover shall be deemed to be lapsed as from the due date.

12. Late Payment Interest:

Interest at 110% of market prime lending rate on balances due from the due date to the date of payment.

13. Taxes and Deductions:

Nil

14. General Conditions:

All terms, conditions and clauses applicable to this Agreement, including those listed below, are more fully defined in the Contractual Wording.

- 1 This Agreement does not protect the surplus loss amounts exceeding the loss occurrence limitations in the underlying Proportional Treaties.
- 2 Reinsuring Clause
- 3 Period of Application Clause
- 4 Territorial Scope
- 5 Exclusions
- 6 Definition of Loss Occurrence.
- 7 Extended Expiration Clause.
- 8 Ultimate Net Loss Clause.
- 9 Net Retained Lines Clause.
- 7 Reinstatement Clause.
- 8 Premium Clause.
- 9 Currency Conversion Clause.
- 10 Taxes and Deductions
- 11 Claims Reporting (**75% of deductible**) and Settlement Clause
- 12 Offset Clause.
- 13 Underwriting Policy Clause.
- 14 Change in Law Clause.
- 15 Inadvertent Delay, Errors and Omissions Clause.
- 16 Self-Insurance Clause.
- 17 Incorrect or Incomplete Information Clause.
- 18 Inspection of Records Clause.
- 19 Modifications to Treaty Clause.
- 20 Special Cancellation Clause.

- 21 Insolvency Clause
- 22 Interpretation Clause.
- 23 Intermediary Clause.
- 24 Choice of Law and Jurisdiction Clause.
- 25 Arbitration Clause.
- 26 Sanctions Limitation and Exclusion Clause.
- 27 Several Liability Notice LSW 1001 (Reinsurance).

15. Special Conditions: None other than may exist in this Agreement.

16. Warranties: None other than may exist in this Agreement.

17. Intermediary: The Intermediary for this Agreement is:
XYZ Reinsurance Brokers Limited,
Victoria Island,
Lagos, Nigeria

18. Brokerage: 10% (Nil on reinstatement)

19. Choice of Law and Jurisdiction: It is agreed that this Reinsurance Agreement (including arbitration tribunals) shall be governed by the Laws of Nigeria and the Courts of Law in Nigeria will have sole jurisdictions in all matters relating to this Agreement.
As more fully defined within the Contractual Wording.

However no indemnity under this Agreement shall apply to compensation for damages in respect of judgments delivered or obtained by a court of competent jurisdiction within the U.S.A or Canada or any of their territories.

20. Seat of Arbitration: The Seat of arbitration will be Lagos, Nigeria.

Appointor: The Secretary General for the time being of the Court of Arbitration of the International Chamber of Commerce.
If another Appointer has been agreed please amend.

21. Leading Reinsurer: African Reinsurance Corporation, the "Reinsurer".

22. Wording: Full contractual wording is incorporated.

This Slip Reinsurance Agreement details the Agreement terms entered into by the Reinsured and the Reinsurer and constitutes the full Reinsurance Agreement.

23. Acceptance: African Reinsurance Corporation, signing hereon as follows:

First Layer: 40.00% of 100%

Second Layer: 40.00% of 100%

Third Layer: 40.00% of 100%

.....

- Information:**
- 1 Underwriting Information and Statistics as per Information exhibit seen and noted by Reinsurer hereon
 - 2 Maximum Retention per risk: (Sum Insured/Maximum Probable Loss) NGN 5,000,000 for material Damage and Consequential Loss Combined, (MPL Basis) in respect of all business other than residential.

Minimum Maximum Probable Loss 50%
 - 3 Estimated Gross Net Retained Premium Income.

2012: NGN 30,000,000 (Revised)

2013: NGN 35,000,000 (Estimate)

CONTRACTUAL WORDING

ATTACHING TO AND FORMING PART OF FIRE AND ALLIED PERILS CATASTROPHE EXCESS OF LOSS SLIP REINSURANCE AGREEMENT NUMBER: **ARC/FAP/CatXL**

PREAMBLE

This Agreement is to reinsure a portion of the loss sustained by the Reinsured in respect of all business specified under "Class of Business" in the Contractual Details subject to any clauses, exclusions, special conditions and warranties applying to this Agreement.

Article 1: Reinsuring Clause

In consideration of the payment of premium as provided in the PREMIUM Article and subject to the other terms and conditions of this Agreement, the Reinsurer shall indemnify the Reinsured for that portion of the loss sustained by the Reinsured which exceeds the "Deductible" or "Priority" or "Retention" stated in the Contractual Details ultimate net loss any one loss occurrence.

The liability of the Reinsurer under this Agreement shall not exceed its agreed share of the "Limit" stated in the Contractual Details ultimate net loss in respect of any one loss occurrence subject to the Reinstatement Provisions.

Article 2: Period of Application Clause

This Agreement applies only to losses occurring during the period specified in the Contractual Details, both days inclusive Local Standard Time at the place where the loss occurs.

Article 3: Territorial Scope

The territorial scope of this Agreement is as specified in the Contractual Details.

Article 4: Exclusions

This Agreement shall not cover perils and risks specified in section 5 of the Contractual Details, subject to any special acceptances as defined herein.

Article 5: Definition of Loss Occurrence

The words "Loss Occurrence" shall mean any individual loss or all individual losses arising out of and directly occasioned by one catastrophe. However, the duration and extent of any "Loss Occurrence" so defined shall be limited to:-

- (a) 72 consecutive hours as regards hurricane, cyclone, typhoon, windstorm, rainstorm, hailstorm and/or tornado
- (b) 72 consecutive hours as regards earthquake, seaquake, tidal wave and/or volcanic eruption
- (c) 72 consecutive hours and within the limits of one City, Town or Village as regards riots, civil commotion and malicious damage
- (d) 72 consecutive hours as regards any "Loss Occurrence" which includes individual loss or losses from any of the perils mentioned in (a), (b) and (c) above
- (e) 168 consecutive hours for any "Loss Occurrence" of whatsoever nature which does not include individual loss or losses from any of the perils mentioned in (a), (b) and (c) above

and no individual loss from whatever Insured peril, which occurs outside these periods or areas, shall be included in that "Loss Occurrence".

The Reinsured may choose the date and time when any such period of consecutive hours commences and if any catastrophe is of greater duration than the above periods, the Reinsured may divide that catastrophe into two or more "Loss Occurrences", provided no two periods overlap and provided no period commences earlier than the date and time of the happening of the first recorded individual loss to the Reinsured in that catastrophe.

Article 6: Extended Expiration Clause

If this Agreement should terminate or expire whilst a loss occurrence covered hereunder is in progress then the Reinsurer shall be responsible as if the entire loss or damage had occurred prior to the expiration or termination hereof provided that no part of that loss occurrence is claimed against any renewal or replacement of this Agreement.

Article 7: Ultimate Net Loss Clause

The term "Ultimate Net Loss" shall mean the sum actually paid by the Reinsured in settlement of any one loss any one risk or any one loss occurrence including litigation and other expenses incurred by the Reinsured in connection with the adjustment thereof excluding office expenses and salaries of the

Reinsured and after deduction of all salvages and recoveries including recoveries from all other reinsurances inuring for the benefit hereof whether collected or not.

All salvages, recoveries or payments recovered or received subsequent to a loss settlement under this Agreement shall be applied as if recovered or received prior to the aforesaid settlement and all necessary adjustments shall be made by the parties hereto. Provided always that nothing in this clause shall be construed to mean that losses under this Agreement are not recoverable until the Reinsured's Ultimate Net Loss has been ascertained.

Notwithstanding anything contained herein to the contrary, it is agreed that recoveries under any Underlying Reinsurance effected by the Reinsured are for the sole benefit of the Reinsured and shall not be taken into account in computing the Ultimate Net Loss or Losses in excess of which this Agreement attaches nor in any way prejudice the Reinsured's right of recovery hereunder.

It is agreed that this Agreement does not protect the surplus loss amounts exceeding the loss occurrence limitations in the underlying proportional treaties.

Article 8: Net Retained Lines Clause

This Agreement applies only to that portion of business which the Reinsured, acting in accordance with its established practices at the commencement of this Agreement, retain net for their own account, and in calculating the amount of any loss hereunder and also in computing the amount or amounts in excess of which this Agreement attaches, only loss or losses in respect of that portion of business which the Reinsured retains net for its own account shall be included other than reinsurances referred to under the Ultimate Net Loss Clause.

The Reinsurer's liability hereunder shall not be increased due to an error or omission which results in an increase in the Reinsured's normal net retention nor by the Reinsured's failure to reinsure in accordance with its normal practice, nor by reason of the inability of the Reinsured to collect from any other Reinsurers, whether specific or general, any amounts which may have become due from them, whether such inability arises from the insolvency of such other Reinsurers or otherwise.

Article 9: Reinstatement Clause (applicable separately in respect of each layer hereon)

In the event of the whole or any portion of the indemnity provided under this Agreement being exhausted, the amount so exhausted shall be automatically reinstated from the time of the loss occurrence to the expiry of this Agreement subject to payment of an additional premium calculated on the basis stated under REINSTATEMENTS in the Contractual Details. Such additional premium to be paid at the time the loss settlement is made.

Nevertheless, the Reinsurer's liability shall not exceed the limit of this Agreement as specified in the Contractual Details of this Agreement with respect to any one loss occurrence nor more than the amount as specified in the Contractual Details of this Agreement under REINSTATEMENTS (Limit in all) with respect to all losses arising during the term of the Agreement.

If a loss settlement that gives rise to reinstatement is made prior to the adjustment of the Minimum and Deposit Premium the reinstatement premium shall be provisionally calculated on such Minimum and Deposit Premium, and adjusted when the final adjusted premium figures are available.

Losses shall be considered in date order of their occurrence.

Article 10: Premium Clause (Applicable separately in respect of each layer hereon)

10.1 Premium

The Reinsured shall pay to the Reinsurer the Minimum and Deposit Premium in the manner specified in the Contractual Details.

10.2 Premium Adjustment

If applicable, as soon as possible after expiry of this Agreement but nevertheless not later than the period specified in the Contractual Details, the Deposit Premium as stated in the Contractual Details shall be adjusted to an amount equal to the rate specified in the Contractual Details applied to the Reinsured's declared premium income (as defined hereunder), subject however, to a final adjusted premium of not less than the Minimum Premium or the currency equivalent specified in the Contractual Details, the balances due shall be calculated and paid accordingly. In the event that the Minimum and Deposit premium is not exceeded then there shall be no further adjustment of premium hereunder.

10.3 Gross Net Retained Premium Income

The term Gross Net Retained Premium Income shall mean the Gross Premium accounted for by the Reinsured on business protected hereunder during the period of the Agreement less only return premiums and premiums paid for reinsurances, recoveries under which inure to the benefit hereof.

10.4 Payment of Premium

It is warranted that if any amount payable in terms of this Agreement is outstanding after the date on which payment is due, then cover shall lapse hereunder from the due date.

10.5 Late Payment

Any amounts outstanding after the due date on which settlement is due shall be subject to the payment of interest by the debtor party to the creditor party at the rate stated in the Contractual Details. Late payment interest shall be calculated on the amount due from the due date to the actual date of payment.

The Debtor party shall bear the Creditor party's loss through currency fluctuation.

Article 11: Currency Conversion Clause

11.1 Currency

The Contract and settlement currencies are specified in the Contractual Details.

11.2 Rates of Exchange

For the purpose of this Agreement currencies other than the currency in which this Agreement is written shall be converted into such currency at the rate of exchange used in the Reinsured's books. Where there is a specific remittance for a loss settlement, the conversion will be at the rate of exchange ruling on the date upon which settlement is effected.

11.3 Additional Charges

All additional charges incurred or to be incurred, including but not limited to bank charges in respect of any payment made after the due date shall be for the account of the Debtor party at the rate prevailing at the due date.

Article 12: Taxes and Deductions from Reinsurance Premium

Taxes and deductions from Reinsurance premium, if any, are as specified in the Contractual Details.

Article 13: Claims Reporting and settlement Clause

13.1 Claims Notification

The Reinsured shall as soon as practicable advise the Reinsurer in writing of any circumstance occurring during the currency of this Agreement which would result in a claim exceeding

75% (seventy five per cent) of the Reinsured's deductible and thereafter keep the Reinsurer fully informed of any developments regarding the claim or claims hereunder.

13.2 Claims Co-operation Clause

Whenever a claim or claims arising out of one accident appears likely to exceed the retention or priority or deductible limit stated in the Contractual Details, the course of action to be adopted in connection with the

defence or settlement of such claim or claims shall be determined by agreement between the Reinsured and the Reinsurer or the representative of the Reinsurer. The Reinsured shall not without the consent of the Reinsurer or the representative of the Reinsurer litigate any such claim or claims.

Compliance with the terms of this clause shall be a condition precedent to the Reinsurer's liability in respect of any claim under this Agreement.

13.3 Loss Settlement Clause

All loss settlements made by the Reinsured, provided same are within the terms of the original policies and/or contracts and within the terms of this Agreement, shall be unconditionally binding upon the Reinsurer and amounts falling to the share of the Reinsurer shall be payable by them upon reasonable evidence of the amount paid being given by the Reinsured.

13.4 Unsettled Claims Clause.

In respect of the unsettled claims the Reinsured shall supply the Reinsurer as at the end of each quarter with the estimated amount from the ground up of the unsettled claims.

The information to be supplied by the Reinsured shall, in addition to the estimated amount aforementioned, include the Insured's name and date of loss.

This information shall be forwarded to the Reinsurer no later than six weeks from the end of the quarter.

Following cancellation of this Agreement the information above shall be so forwarded to the Reinsurer until all liability under this Agreement shall have been discharged.

Article 14: Offset Clause

Any confirmed balances due by either of the parties to this Agreement, whether they arise out of this Agreement or out of other insurance/reinsurance business relationship between the parties, may be set-off against confirmed balances of the other party. This right shall continue to exist after the termination of this Agreement or of any other insurance/reinsurance business relationship between the parties.

If bankruptcy or liquidation proceedings are initiated in respect of either of the parties to this Agreement, the other party may set off all amounts owing to it, whether they arise out of this Agreement or out of any other insurance/reinsurance business relationship between the parties, against all the amounts due or not yet due for payment by it, whether these arise out of this Agreement or out of any other insurance/reinsurance business relationship between the parties. The same right may be exercised by

any party to this Agreement that exercises its right of special termination for any other reason indicated in this Agreement.

Where the Reinsurer has set up a deposit, it may, in the event of bankruptcy or liquidation proceedings being initiated against the Reinsured or in the event of special termination, exercise its rights in respect of the deposit or arising out of the deposit agreement wholly or in part as if they were immediately due debts of the Reinsured, and may set off such debts against any amounts payable to the Reinsured. To the extent that the Reinsurer exercises its right of set-off, it shall waive any rights accorded to it by the deposit agreement.

Article 15: Underwriting Policy Clause

It is a condition precedent to the Reinsurer's liability hereunder that the Reinsured shall not introduce at any time after the Reinsured enters into this Agreement any change in its established acceptance and underwriting policy which may increase or extend the liability or exposure of the Reinsurer hereunder in respect of the classes of business to which this Agreement applies without the prior written approval of the Reinsurer.

Article 16: Change in Law Clause.

In the event of any change in the law by which the Reinsurer's liability hereunder is materially increased, or extended, the parties hereto agree to take up for immediate discussion, a suitable revision in the terms of this Agreement. In the event of failure to agree upon a suitable revision, this Agreement shall operate from the effective date of the change of law as if the change had not occurred, or upon its termination the Reinsurer's liability will not be increased or extended by any change of law affecting this Agreement, which has not been agreed to by the Reinsurer.

Article 17: Inadvertent Delay, Errors and Omissions Clause

Any inadvertent delay, error or omission on the part of either the Reinsured or the Reinsurer shall not relieve the other party from any liability which would have attached to this Agreement, provided that such error or omission is rectified immediately upon discovery and shall not impose any greater liability on the Reinsured or the Reinsurer than would have attached had the error or omission not occurred.

Article 18: Self-Insurance Clause

In respect of self-insurance which may be effected by the Reinsured, the liability of the Reinsurer shall be determined without regard to the legal principle that a person, company or corporation cannot be liable to itself.

Article 19: Incorrect or Incomplete Information Clause

The terms of this Agreement are based on the information supplied by the Reinsured to the Reinsurer prior to the conclusion of this Agreement.

Should the Reinsured have supplied the Reinsurer with information which it knew or should have known to be incorrect or incomplete, this Agreement shall be affected as follows: if the Reinsurer, in possession of the true facts, would have declined to provide Reinsurance, this Agreement shall be void. If the Reinsurer, in possession of the true facts, would have provided Reinsurance but under less advantageous terms, this Agreement shall be modified accordingly with effect from the commencement of this Agreement.

The Reinsurer, if in possession of the true facts, will be deemed to have acted as reasonable Reinsurer would have acted under the same circumstances, unless the Reinsured is able to show otherwise.

Article 20: Inspection of Records Clause

The Reinsured shall, upon request by the Reinsurer, make available at the Reinsured's head office or wherever the same may be located, for inspection at any reasonable time by such representatives as may be authorised by the Reinsurer for that purpose, all information relating to business reinsured hereunder in the Reinsured's possession or under its control and the said representatives may arrange for copies to be made at the Reinsurer's expenses of any of the records containing such information as they may require.

It is agreed that the Reinsurer's right of inspection shall continue as long as either party has a claim against the other arising out of this Agreement.

Article 21: Modification to Treaty Clause

Any mutually agreed modification of the terms and conditions of this Agreement, whether by Addendum or correspondence, shall be deemed to be binding upon the parties hereto, and to form an integral part of this Agreement.

Article 22: Special Cancellation Clause

1. Either party shall have the right to terminate this Agreement immediately by giving the other party notice:-
 - (a) if the performance of the whole or any part of this Agreement be prohibited or rendered impossible de jure or de facto in particular and without prejudice to the generality of the preceding words in consequence of any law or regulation which is or shall be in force in any country or territory or if any law or regulation shall prevent directly or indirectly the remittance of any or all or any part of the balance of payments due to or from either party;
 - (b) if the other party has become insolvent or unable to pay its debts or has lost the whole or any part of its paid up capital or has any authority to transact any class of business withdrawn, suspended or made conditional;
 - (c) if there is any material change in the ownership, management or control of the other party;
 - (d) if the country or territory in which the other party resides or has its head office or is incorporated shall be involved in armed hostilities with any other country whether war be declared or not or is partly or wholly occupied by another power;
 - (e) if the other party shall have failed to comply with any of the terms and conditions of this Agreement.
2. After the date of any such termination the liability of the reinsurer hereunder shall cease outright other than in respect of individual insured losses which have occurred prior thereto. Liability for losses in progress at the date of termination shall be dealt with in accordance with the Extended Expiration Clause.
3. All notices of termination in accordance with any of the provisions of this Clause shall be given in writing by Registered Letter, Telex, Telegram, Facsimile or any other permanent means of instantaneous communication and shall be deemed to be served upon despatch or where communications between the parties are interrupted upon attempted despatch.

4. All notices of termination served in accordance with any of the provisions of this Agreement shall be addressed to the party concerned at its head office or at any other address previously designated by that party.
5. In the event of termination in accordance with the Special cancellation provision above the exact premium payable hereunder shall be calculated upon the Gross Net Premium Income of the Reinsured up to the date of termination or pro rata temporis of the Minimum Premium, whichever is the greater.
6. Following the termination, the Reinsured may commute any or all of the outstanding liabilities under this Agreement, subject always to the Reinsurer's agreement and any predecessor Agreement. In the event the Reinsured and the Reinsurers do not agree to a mutually acceptable commutation, the parties respective rights and obligations shall continue as set forth in this Agreement

Article 23: Insolvency Clause

1. Where an insolvency event occurs in relation to a reinsured the following terms shall apply (and, in the event of any inconsistency between these terms and any other terms of the Agreement, these terms shall prevail):
 - 1.1 Notwithstanding any requirement in this Agreement that a Reinsured shall actually make payment in discharge of its liability to its policyholder before becoming entitled to payment from the Reinsurer:
 - 1.1.1 the Reinsurer shall be liable to pay the Reinsured even though the Reinsured is unable to actually pay, or to discharge its liability to, its policyholder; but
 - 1.1.2 nothing in this clause shall operate to accelerate the date for payment by the Reinsurer of any sum which may be payable to the Reinsured, which sum shall only become payable as and when the Reinsured would have discharged, by actual payment, its liability for its current net loss but for it being the subject of an insolvency event.
 - 1.2 The existence, quantum, valuation and date for payment of any sums which the Reinsurer is liable to pay the reinsured under this Agreement shall be those and only those for which the Reinsurer would be liable to the Reinsured if the liability of the Reinsured had been determined without reference to any term in any composition or scheme of arrangement, entered into between the reinsured and all or any part of its policyholders unless and until the Reinsurer serves written notice to the contrary on the Reinsured in relation to any composition or scheme of arrangement.
 - 1.3 The Reinsurer shall be entitled (but not obliged) to off-set, against any sum which it may be liable to pay the reinsured, any sum for which the reinsured is liable to pay the Reinsurer.
2. An insolvency event shall occur if:
 - 2.1 (in relation to 1.1, 1.2 and 1.3 above) a winding up petition is presented in respect of the Reinsured or a provisional liquidator is appointed over it or if the Reinsured goes into administration, administrative receivership or receivership or if the Reinsured has a scheme of arrangement proposed in relation to all or any parts of its affairs; or

- 2.2 (in relation to 1.1 above) if the Reinsured goes into compulsory or voluntary liquidation;
- 2.3 or, in each case, if the Reinsured becomes subject to any other similar insolvency process (whether under the laws of England and Wales or elsewhere) and
- 2.4 the Reinsured is unable to pay its debts as and when they fall due within the meaning of section 123 of the Insolvency Act 1986 (or any statutory amendment or re-enactment of that section) or any equivalent provision under the Law specified under the Choice of Law and Jurisdiction section of the Contractual Details.

Article 24: Intermediary Clause

24.1 Intermediary

The intermediary named in the Contractual Details is hereby recognised as the intermediary negotiating this Agreement for all business hereunder.

24.2 Communications

All communications (including but not limited to notices, statements, premiums, return premiums, commissions, taxes, losses, loss adjustments, expenses, salvages and loss settlements) relating thereto shall be transmitted to the Reinsured or the Reinsurer through the named intermediary, subject to the provision of Article 22 (Special Cancellation Clause) hereunder.

24.3 Payments

(a) Payments by the Reinsurer to the Intermediary for the account of the Reinsured shall be deemed to constitute payment to the Reinsured for the purpose of discharging the Reinsurer's liability hereunder.

(b) Payments by the Reinsured through the Intermediary shall only constitute payment to the Reinsurer when and to the extent that such payments are actually received by the Reinsurer.

Article 25: Interpretation Clause

The terms of this Agreement shall be construed in accordance with recognised reinsurance practice rather than being given a strictly literal or legal interpretation.

Article 26: Choice of Law and Jurisdiction Clause

This Agreement (including Arbitration Tribunals) shall be governed by the Law of the Country specified in the Contractual Details whose Courts shall have exclusive or final jurisdiction in any dispute, doubt or question arising hereunder and in the event of any action, claim or demand by any claimant under or by virtue of the original insurance, the liability of the Reinsurer to indemnify the Reinsured in such event shall be limited to judgements delivered or obtained by a Court of competent jurisdiction within the Country specified in the Contractual Details

Article 27: Arbitration Clause

All matters in difference between the Reinsured and the Reinsurer (hereinafter referred to as "the parties") in connection with this Agreement including its formation and validity and whether arising during or after the period of this Agreement shall be referred to an arbitration tribunal in the manner hereinafter set out.

Unless the parties agree upon a single arbitrator within thirty days of one receiving a written request from the other for arbitration, the claimant (the party, requesting arbitration) shall appoint one arbitrator and give written notice thereof to the respondent.

Within thirty days of receiving such notice, the respondent shall appoint a second arbitrator and give written notice thereof to the claimant, failing which the claimant may apply to the appointor hereinafter named to appoint the second arbitrator.

Before they enter upon a reference the two arbitrators shall appoint a third arbitrator. Should they fail to appoint such a third arbitrator within thirty days of the appointment of the second arbitrator then either of them or either of the parties may apply to the appointor for the appointment of the third arbitrator. The three arbitrators shall decide by majority. If no majority can be reached, the verdict of the third arbitrator shall prevail. He shall also act as Chairman of the Arbitration Tribunal.

Unless the parties otherwise agree, the arbitration tribunal shall consist of persons (including those who have retired) with not less than ten years' experience of insurance or reinsurance as persons engaged in the business itself or advising such business in a professional capacity.

The arbitration tribunal shall, so far as it is permissible under the law and practice of the seat of arbitration, have power to fix all procedural rules for the holding of the arbitration, including discretionary power to make orders as to any matters which it may consider proper in the circumstances of the case with regard to pleadings, discovery, inspection of the documents, examination of witnesses and any other matter whatsoever relating to the conduct of the arbitration, and may receive and act upon such evidence, whether oral or written, strictly admissible or not, as it shall at its discretion think fit.

The appointor shall be as specified in the Contractual Details or if he is unavailable or it is inappropriate for him to act for any reason, such person as may be nominated by the Committee of that body. If for any reason such persons decline or are unable to act then the appointor shall be the judge of the appropriate Courts having jurisdiction at the seat of Arbitration.

All costs of the arbitration shall be at the discretion of the arbitration tribunal who may direct to and by whom and in what manner they shall be paid.

The seat of the arbitration shall be in the place specified in the Contractual Details and the law applicable to both the aforesaid Agreement and this arbitration Agreement shall be the law of that country.

A reasoned award of the arbitration tribunal shall be issued to the parties in writing and shall be final and binding upon the parties who covenant to carry out the same. If either of the parties should fail to carry out the award, the other may apply for its enforcement to a court of competent jurisdiction in any territory in which the party in default is domiciled or has assets or carries on business.

It is understood and agreed that this arbitration agreement shall be construed as a separate and independent contract between the parties hereto and arbitration hereunder shall be a condition precedent to the commencement of any action at law.

Article 28: Sanctions Limitation and Exclusion Clause

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, United States of America or African Union.

Article 29: Several Liability Notice LSW 1001 (Reinsurance)

In case there are other subscribing Reinsurers to this Agreement, the subscribing Reinsurers' obligations under this Agreement and/or any other contracts of reinsurance to which they subscribe are several and not joint and are limited solely to their individual subscriptions. The subscribing Reinsurers are not responsible for the subscription of any co-subscribing reinsurer who for any reason does not satisfy all or part of its obligations.

IN WITNESS WHEREOF, this Agreement has been signed in two originals for and on behalf of both the contracting parties, as hereafter:

In this day of 20..

For and on behalf of the Reinsurer

In this day of 20..

For and on behalf of the Reinsured

**EXCLUSIONS ATTACHING TO AND FORMING PART OF
FIRE AND ALLIED PERILS CATASTROPHE EXCESS OF LOSS
SLIP REINSURANCE AGREEMENT NUMBER: ARC/FAP/CatXL/**

APPENDIX NO. 1.1

War and Civil War, Political Risk and Terrorism

The following shall be excluded from this Agreement:

Any loss or damage occasioned by or through or in consequence, directly or indirectly, of any of the following occurrences, namely:

- 1 War, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not), civil war.
- 2 Abandonment and/or permanent or temporary dispossession resulting from detention, confiscation, seizure, restraint, commandeering, nationalisation, appropriation, destruction or requisition by order of any government de jure or de facto or by any public authority.
- 3 Mutiny, civil commotion, military rising, insurrection, rebellion, revolution, military or usurped power, martial law or state of siege or any of the events or causes which determine the proclamation or maintenance of martial law or state of siege.
- 4 Any act, including but not limited to labour disturbance, lock-out, riot or strike, which is calculated or directed to bring about loss or damage in order to further any political aim, objective or cause, or to bring about any social or economic change, or in protest against any State or Government, or any political or local authority, or for the purpose of imposing fear in the public or any section thereof.
- 5 The act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with any occurrence referred to in clauses 4 above.
- 6 Plundering, looting, war pillage in connection with civil commotion or any of the activities referred to in clause 4 above.

For the purposes of clauses 4, 5 and 6, any loss or damage occasioned directly by a labour disturbance, lock-out, riot or strike or in order to bring about any social or economic change which is not politically motivated as envisaged in clause 4 shall not be excluded.

In any action, suit or other proceeding where the Reinsurer alleges that by reason of these provisions any loss, damage, cost or expense is not covered by this Reinsurance Agreement, the burden of proving that such loss, damage, cost or expense is covered shall be upon the Reinsured.

Terrorism Exclusion Clause

Notwithstanding any provision to the contrary within this agreement or any endorsement thereto, this reinsurance agreement does not cover any liability, loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from, happening through or in connection with any act of terrorism, regardless of any other cause contributing concurrently or in any other sequence to the loss, damage, cost or expense.

For the purpose of this exclusion, terrorism means an act, including but not limited to the use of violence or force and/or the threat thereof, whether as an act harmful to human life or not, by any person or group(s) of person(s), whether acting alone or on behalf of, or in connection with any organisation(s) or government(s) or any person or body of persons, committed for political, religious, personal, ethnic or ideological reasons or purposes including any act committed with the intention to influence any government and/or for the purpose of inspiring fear in the public or any section thereof.

In any action, suit or other proceeding in which the Reinsurer alleges that by reason of this definition any loss, damage, cost or expense is not covered by this Reinsurance Agreement, the burden of proving that such loss, damage, cost, or expense is covered shall be upon the Reinsured.

APPENDIX NO. 1.2

Terrorism Clause For Contamination and Explosives

It is agreed that, regardless of any contributory causes, this reinsurance does not cover any loss, damage, cost or expense directly or indirectly arising out of

- a) biological or chemical contamination
- b) Missiles, bombs, grenades, explosives

due to any act of terrorism.

For the purpose of this endorsement an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological, or ethnic purposes or reasons including the intention to influence any government and/or to put the public, or any section of the public, in fear.

For the purpose of a) "contamination" means the contamination, poisoning, or prevention and/or limitation of the use of objects due to the effects of chemical and/or biological substances.

If the Reinsurer allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this reinsurance the burden of proving the contrary shall be upon the Reassured.

APPENDIX NO. 1.3

Nuclear Energy Risks Exclusion Clause NMA 1975A (Reinsurance) (1994) (World-wide excluding USA & Canada)

This Agreement shall exclude Nuclear Energy Risks whether such risks are written directly and/or by way of reinsurance and/or Pools and/or Associations.

For all purposes of this Treaty Nuclear Energy Risks shall mean all first and/or third party insurances or reinsurances (other than Workers' Compensation and Employers' Liability) in respect of:

- (I) All **Property** on the site of a nuclear power station.
Nuclear Reactors, reactor buildings and plant and equipment therein on any site other than a nuclear power station.
- (II) All **Property** on any site (including but not limited to the sites referred to in (I) above) used or having been used for:
 - (a) The generation of nuclear energy; or
 - (b) The **Production, Use or Storage of Nuclear Material**.
- (III) Any other **Property** eligible for insurance by the relevant local Nuclear Insurance Pool and/or Association but only to the extent of the requirements of that local Pool and/or Association.
- (IV) The supply of goods and services to any of the sites, described in (I) to (III) above, unless such insurances or reinsurances shall exclude the perils of irradiation and contamination by **Nuclear Material**.

Except as undernoted, Nuclear Energy Risks shall not include:

- (i) Any insurance or reinsurance in respect of the construction or erection or installation or replacement or repair or maintenance or decommissioning of **Property** as described in (I) to (III) above (including contractors' plant and equipment), and/or
- (ii) Any Machinery Breakdown or other Engineering insurance or reinsurance not coming within the scope of (i) above;

Provided always that such insurance or reinsurance shall exclude the perils of irradiation and contamination by **Nuclear Material**.

However, the above exemption shall not extend to:

- (1) The provision of any insurance or reinsurance whatsoever in respect of:
 - (a) **Nuclear Material**;
 - (b) Any **Property** in the **High Radioactivity Zone or Area** of any **Nuclear Installation**
as from the introduction of **Nuclear Material** or - for reactor installations - as from fuel loading or first criticality where so agreed with the relevant local Nuclear Insurance Pool and/or Association.
- (2) The provision of any insurance or reinsurance for the undernoted perils:
 - Fire, lightning, explosion;
 - Earthquake;
 - Aircraft and other aerial devices or articles dropped therefrom;

- Irradiation and radioactive contamination;
- Any other peril insured by the relevant local Nuclear Insurance Pool and/or Association;

in respect of any other **Property** not specified in (1) above which directly involves the **Production, Use or Storage of Nuclear Material** as from the introduction of **Nuclear Material** into such **Property**.

Definitions

“Nuclear Material” means:-

- (i) Nuclear fuel, other than uranium and depleted uranium, capable of producing energy by self-sustaining chain process of nuclear fission outside a **Nuclear Reactor**, either alone or in combination with some other materials; and
- (ii) **Radioactive Products or Waste.**

“**Radioactive Products or Waste**” means any radioactive material produced in, or any material made radioactive by exposure to the radiation incidental to the production or utilisation of nuclear fuel, but does not include radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose.

“**Nuclear Installation**” means:

- (i) Any **Nuclear Reactor**;
- (ii) Any factory using nuclear fuel for the production of **Nuclear Material**, or any factory using nuclear fuel for the processing of **Nuclear Material**, including any factory using fuel for the reprocessing of irradiated nuclear fuel; and
- (iii) Any facility where **Nuclear Material** is stored, other than storage incidental to the carriage of such material.

“**Nuclear Reactor**” means any structure containing nuclear fuel in such an arrangement that a self-sustaining chain process of nuclear fission can occur therein without any additional source of neutrons.

“**Production, Use or Storage of Nuclear Material**” means the production, manufacture, enrichment, conditioning, processing, reprocessing, use, storage, handling and disposal of **Nuclear Material**.

“**Property**” shall mean all land, building, structures, plant, equipment, vehicles, contents (including but not limited to liquids and gases) and all materials of whatever description whether fixed or not.

“**High Radioactivity Zone or Area**” means:

- (i) For nuclear power stations and **Nuclear Reactors**, the vessel or structure which immediately contains the core (including its support and shrouding) and all the contents thereof, the fuel elements, the control rods and the irradiated fuel store; and
- (ii) For non-reactor **Nuclear Installations**, any area where the level of radioactivity requires the provision of a biological shield.

APPENDIX NO. 1.4

Radioactive Exclusion Clause

Unless specifically agreed for an insured loss involving nuclear material under determined circumstances, this Agreement does not cover loss, damage cost or expense of whatsoever nature directly or indirectly caused, resulting from or in connection with nuclear energy or radioactivity of any kind including but not limited to any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

1. ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel.
 2. the radioactive, toxic, explosive or other hazardous or contamination properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof.
 3. any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

APPENDIX NO. 1.5

Nuclear Causes Clause

This Treaty does not cover legal liability, loss (including consequential loss), damage, cost or expense caused directly or indirectly by any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

Nuclear material; nuclear fission or fusion; nuclear radiation; nuclear waste from the use of nuclear fuels or nuclear explosives or any nuclear weapon.

Definitions:

Nuclear material as defined in NMA 1975.

Nuclear fission means a nuclear reaction in which a heavy nucleus splits spontaneously or on impact with other particle with the release of energy.

Nuclear fusion means a nuclear reaction in which atomic nuclei of low atomic number fuse to form a heavier nucleus with the release of energy.

Nuclear radiation means the absorption of electro-magnetic radiation by a nucleus having a magnetic moment when in an external magnetic field.

Nuclear waste as defined in NMA 1975.

Nuclear fuels means a substance that will sustain a fission chain reaction so that it can be used as a source of nuclear energy.

Nuclear explosives means an explosive involving the release of energy by nuclear fission or fusion or both.

Nuclear weapon means a nuclear device designed, used or usable for inflicting bodily harm or property damage.

APPENDIX NO. 1.6

Computer Loss General Exclusion

General Exclusion applicable to this Agreement insuring damage to property or the consequences of damage to property or any liability

Notwithstanding any provision of this Agreement including any special exclusion, exception or extension or other provision not included herein which would otherwise override a general exclusion, this Agreement does not cover:

- a) loss or destruction of or damage to any property whatsoever (including a computer) or any loss or expense whatsoever resulting or arising therefrom;
- b) any legal liability of whatsoever nature;
- c) any consequential loss;

directly or indirectly caused by or contributed to by or consisting of or arising from the incapacity or failure of any computer, correctly or at all

- i) to treat any date as the correct date or true calendar date, or correctly or appropriately to recognise, manipulate, interpret, process, store, receive or to respond to any data or information, or to carry out any command or instruction, in regard to or in connection with any such date, or
- ii) to capture, save, or to process any information or code as a result of the operation of any command which has been programmed into any computer, being a command which causes the loss of data or the inability to capture, save, retain or correctly to process such data in regard to or in connection with any such date, or
- iii) to capture, save, retain or to process any information or code due to programme errors, incorrect entry or the inadvertent cancellation or corruption of data and/or programmes, or
- iv) to capture, save, retain or to process any data as a result of the action of any computer virus, or other corrupting, harmful or otherwise unauthorised code or instruction including any Trojan horse, time or logic bomb or worm or any other destructive or disruptive code, media or programme or interference.

A computer includes any computer, data processing equipment, microchip, integrated circuit or similar device in computer or non-computer equipment or any computer software, tools, operating system or any computer hardware or peripherals and the information or data electronically or otherwise stored in or on any of the above, whether the property of the insured or not.

Special Extension to the above General Exclusion

- A Loss or destruction of or damage to the insured property by fire, explosion, lightning, earthquake or by the special perils referred to in B below or indemnified by a Glass, Employer's Liability, Stated Benefits, Group Personal Accident or Motor policy shall not be excluded by this General Exclusion.

B The special perils that are not excluded for the purpose of this special extension are damage caused by:

1. storm, wind, water, hail or snow excluding damage to property
 - a) arising from its undergoing any process necessarily involving the use or application of water;
 - b) caused by tidal wave originating from earthquake or volcanic eruption;
 - c)* in the underground workings of any mine;
 - d)* in the open (other than buildings structures and plant designed to exist or operate in the open);
 - e)* in any structure not completely roofed;
 - f)* being retaining walls;

*for c), d), e) and f) unless so described and specifically insured as a separated item
2. aircraft and other aerial devices or articles dropped therefrom;
3. impact by animals, trees, aerals, satellite dishes or vehicles excluding damage to such animals, trees, aerals, satellite dishes or vehicles or property in or on such vehicles.

These special perils do not cover wear and tear or gradual deterioration.

C The above General Exclusion also does not apply to consequential loss as insured by any Business Interruption indemnity provided by this Treaty to the extent that such consequential loss results from damage to insured property by the perils referred to A above.

D This Special Extension will not insure any loss destruction, damage or consequential loss if it would not have been insured in the absence of this Computer Losses General Exclusion and this Special Extension.

E This Special Extension shall not apply to any Public Liability indemnity.

APPENDIX NO. 1.7

Electronic Date Recognition Clause EDRC (B)

Section 1

This reinsurance does not cover any loss, damage, cost, claim or expense, whether preventative, remedial or otherwise, directly or indirectly arising out of or relating to:

- a) the calculation, comparison, differentiation, sequencing or processing of data involving the date change to the year 2000, or any other date change, including leap year calculations by any computer system, hardware, programme or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the insured or not; or
- b) any change, alteration or modification involving the date change to the year 2000 or any other date change, including leap year calculations, to any such computer system, hardware, programme or software or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the insured or not.

This clause applies regardless of any other cause or event that contributes concurrently or in any sequence to the loss, damage, cost, claim or expense.

However, this section shall not apply in respect of physical damage occurring at the insured's premises arising out of the perils of fire, lightning, explosion, aircraft or vehicle impact, falling objects, windstorm, hail, tornado, hurricane, cyclone, riot, strike, civil commotion, vandalism, malicious mischief, earthquake, volcano, tsunami, freeze or weight of snow.

Section 2

Notwithstanding Section 1 above, this reinsurance does not cover any costs and expenses, whether preventative, remedial or otherwise, arising out of or relating to change, alteration or modification of any computer system, hardware, programme or software or any microchip, integrated circuit or similar device in computer or non-computer equipment, whether the property of the insured or not.

Section 3

The date change to the year 2000, or any other date change, including leap year calculations, shall not in and of itself be regarded as an event for the purposes of this reinsurance.

APPENDIX NO. 1.8

Clarification Agreement

Property damage covered under this Treaty shall mean physical damage to the substance of property.

Physical damage to the substance of property shall not include damage to data or software, in particular any detrimental change in data, software or computer programmes that is caused by a deletion, a corruption or a deformation of the original structure.

Consequently the following are excluded from this Treaty:

A Loss or damage to data or software, in particular any detrimental change in data, software or computer programmes that is caused by a deletion, a corruption or a deformation of the original structure, and any business interruption losses resulting from such loss or damage. Notwithstanding this exclusion, loss of or damage to data or software which is the direct consequence of insured physical damage to the substance of property, shall be covered.

B Loss or damage resulting from an impairment in the function, availability, range of use or accessibility of data, software or computer programmes, and any business interruption losses resulting from such loss or damage.

APPENDIX NO. 1.9

Institute Chemical, Biological, Bio-Chemical, Electromagnetic Weapons and Cyber Attack Exclusion Clause.

This clause shall be paramount and shall override anything contained in this Agreement inconsistent therewith.

In no case shall this Agreement cover loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from:

- 1 any chemical, biological, biochemical or electromagnetic weapon;
- 2 the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, computer virus or process or any other electronic system.

APPENDIX NO. 1.10

Transmission and Distribution Lines Exclusion

All above ground transmission and distribution lines, including wires, cables, poles, pylons, standards, towers, other support structures and any equipment of any type which may be attendant to such installations of any description for the purpose of transmission and distribution of electric power, telephone or telegraph signals, and all communication signals whether audio or visual.

This exclusion applies to both above and below ground equipment which are more than 150 meters (or 500 feet) from the insured structure.

This exclusion applies both to physical loss or damage to the equipment and all business interruption, consequential loss, and/or other contingent losses related to transmission and distribution lines.

It is understood and agreed that public utilities extension and/or suppliers extension and/or contingent business interruption coverages are not subject to this exclusion, provided that these are not part of a transmitters' or distributors' policy.

APPENDIX NO. 1.11

Pollution/Contamination Exclusion Clause

This Agreement excludes any loss arising from Pollution or Contamination except (unless otherwise excluded) destruction of or damage to the property insured caused by:

pollution or contamination which itself results from a peril reinsured against

any peril reinsured against which itself results from a pollution or contamination

This Treaty also excludes any liability in connection with disposed or dumped waste materials or substances.

APPENDIX NO. 1.12

Asbestos Exclusion Clause

It is hereby understood and agreed that this contract shall not apply to, and does not cover, any actual or alleged liability whatsoever for any claim or claims in respect of loss or losses directly or indirectly caused by, arising out of, resulting from, in consequence of, in any way involving, or to the extent contributed to by, the hazardous nature of asbestos in whatever form or quantity.

**ATTACHING TO AND FORMING PART OF FIRE AND ALLIED PERILS RISK EXCESS OF
LOSS SLIP REINSURANCE AGREEMENT NUMBER: **ARC/FAP/CatXL/****

Supplementary Fire and Allied Perils Exclusion List

1. Obligatory Insurances and Reinsurances of any sort.
2. Excess of Loss Insurances and Reinsurances/Layered policies, Stop Loss or First Loss basis (First Loss exclusion is not applicable for Natural Perils and/or Burglary).
3. Liability arising from Insurance Loss Portfolio Transfers of any kind.
4. Pools and Pooling Arrangements.
5. Line Slips, Binding Authorities, Broker Covers and Captive Pools.
6. Advance Loss of profits.
7. All legal liabilities other than Owners/Occupiers Liability insured under Houseowners and/or Householders Combined and Office Comprehensive policies.
8. Policies issued or renewed for a period exceeding 12 months plus odd time provided that each insurance period does not exceed a maximum of 18 months.
9. Marine Hull and Cargo and all Consequential Loss resulting therefrom.
10. Inland Transit (other than for Fire and Allied Perils) and all Consequential Loss resulting therefrom.
11. Aviation Hull and Liabilities including Air Cargo, and all Consequential Loss resulting therefrom.
12. On and Offshore Oil and/or Gas Drilling and Production Rigs, including any Consequential Loss resulting therefrom.
13. Property insured under Motor Vehicle policies of any type.
14. Credit insurance of any kind; guarantees and bonds of any kind, including Financial Guarantees, Fidelity and Surety Bonds.
15. Hail on Growing Crops of all kinds including but not limited to agricultural and horticultural or when written as a peril separately and all business interruption resulting therefrom.
16. Comprehensive Crop Insurance (on crops of all kinds including but not limited to agricultural and horticultural), and all business interruption resulting therefrom.
17. On trees, shrubs and bushes of all types and consequential loss resulting therefrom

18. Money and all Consequential Loss resulting therefrom (other than money covered on a Fire and Allied Perils policy to be declared to Leading Underwriter (African Reinsurance Corporation) and approval obtained.
19. Accidental Damage and Business Interruption resulting therefrom other than under an Industrial/Assets All Risks cover or Accidental Damage extension to the Fire policy, however, limited to 5% or US\$100,000 equivalent in local currency maximum whichever is lower, of total sum insured per location, per policy unless declared and agreed by the Lead Underwriter (African Reinsurance Corporation).
20. Livestock and all Consequential Loss resulting therefrom (other than Livestock covered on a Fire and Allied Perils policy).
21. Business written with an aggregate excess which applies to Motor, Liability, Personal Accident, Marine and Aviation business unless agreed by the Leading Reinsurer.
22. Any form of mining risks.
23. Burglary (other than under Domestic combined policies).
24. Theft (other than under Office Comprehensive and Domestic policies).
25. Any exposures out of the USA and Canada.
26. Difference in Conditions policies or Difference in Limits policies.
27. Engineering, Contractors All Risks, Erection All Risks and Motor.
28. Customers and Suppliers extension of a Business Interruption section (or otherwise referred to as Contingent Business Interruption cover) which is:
 - a) not on a named perils basis;
 - b) named direct suppliers where the limit exceeds 20% of the Business Interruption Sum Insured or policy limit whichever is the lesser as stated in the underlying policy schedule, unless agreed by the Reinsurer;
 - c) un-named direct suppliers where the limit exceeds 5% of the Business Interruption Sum Insured or policy limit whichever is the lesser as stated in the underlying policy schedule, unless agreed by the Reinsurer;
 - d) not triggered by damage from named perils occurring at the Customer and/or Suppliers' premises;
 - e) not separately evaluated in terms of accumulation exposure;
 - f) not individually rated, assessed and priced.
29. Stock Floater policies other than in respect of Fire and Allied Perils as defined under this Agreement and restricted to the insured premises as stated in the underlying policy schedule.
30. Ex gratia payments otherwise than with the prior consent of the Reinsurer only.
31. Business Interruption with an indemnity period exceeding 18 months.

Depending on the underlying proportional treaty or where there is no proportional treaty this should be considered and adjusted as required:

Inward Local facultative reinsurance and co-insurance if the amount ceded to the Treaty exceeds 50% of the Reinsured's Treaty limit.

Combined liability excess of loss reinsurance agreement

This document is based on a former wording produced by Swiss Reinsurance Company.

**Combined liability excess of loss
reinsurance agreement
(1st - xth layer)**
(hereinafter referred to as “this agreement”)

between

Company
(hereinafter referred to as the “Company”)

and

Company
(hereinafter called the “Reinsurer”)

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General Conditions

Article 1

Scope of agreement

The Reinsurer shall cover losses happening during the period of this agreement and within the territorial scope as set out in the schedule in respect of all direct insurance policies, co-insurance and/or facultative reinsurance written directly by the Company in the lines of business and within the territorial scope as set out in the schedule.

Article 1a

Scope of agreement

The Reinsurer shall cover losses occurring during the period of this Agreement and within the territorial scope as set out in the schedule in respect of all direct insurance policies, co-insurance and/or facultative reinsurance written directly by the Company in the lines of business and within the territorial scope as set out in the schedule.

Article 2

General exclusions

In addition to the special exclusions mentioned in the schedule and attachments, this agreement does not cover the following:

- ¹ Obligatory reinsurance and retrocession treaties.
- ² Facultative reinsurances on an excess of loss basis.
- ³ Direct or proportional facultative acceptances of excess policies, umbrella policies and primary policies with deductibles exceeding the amounts set out in the schedule.
- ⁴ Risks assumed or which should have been assumed in pools formed for the purpose of covering such risks including parts of any risks which are distributed by the pools.
- ⁵ Retroactive cover for known loss occurrences and/or known incidents and/or circumstances.

⁶ Insurance of loss portfolio transfer.

⁷ Liability of any kind arising out of the delegation of underwriting authority.

⁸ Any liability assumed by the Company on loss or damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities or war-like operations (whether war be declared or not), civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power, martial law, confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority, or any act of any person or persons acting on behalf of or in connection with any organisation the objects of which are to include the overthrowing or influencing of any de jure or de facto government by terrorism or by any violent means (LIRMA G51).

⁹ Nuclear energy risks as set out in the schedule.

Article 3

Underwriting policy

¹ The Company undertakes not to introduce any material change in its established acceptance and underwriting policy in respect of the lines of business protected under this agreement without prior information to the Reinsurer.

² The established underwriting policy is set out, inter alia, in the policy forms, general conditions and tariffs used by the Reinsured at the commencement of this agreement.

³ A change in the established underwriting policy is material if it may increase the Reinsurer's liability or exposure under this agreement to such an extent that a reasonable reinsurer would, under the same circumstances, not have covered such policies in this agreement, but rather in a different agreement.

Co-insurance

⁴ It is understood that the gross original policy limit per event of risks accepted by way of co-insurance shall not exceed the amount set out

in the schedule.

Article 4

Limit of indemnity

¹ The Reinsurer undertakes, as regards its agreed share, set out in the schedule, to indemnify the Company for that part of the ultimate net loss which exceeds the amount of the retention, set out in the schedule, in respect of any one loss happening. However, the sum recoverable under this agreement shall be up to but not exceeding the amount for any one loss happening, as set out in the schedule.

Underlying reinsurance

² The Company has underlying layer(s) of excess of loss reinsurance as set out in the schedule in respect of any one loss happening; recoveries under such layer(s) shall be disregarded in computing the ultimate net loss hereunder.

Co-reinsurance

³ The Company shall participate and retain for its' net account, i.e. not reinsured in any way, a co-reinsurance share as set out in the schedule attached.

Article 4a

Limit of indemnity

¹ The Reinsurer undertakes, as regards its agreed share, set out in the schedule, to indemnify the Company for that part of the ultimate net loss which exceeds the amount of the retention, set out in the schedule, in respect of any one loss occurring. However, the sum recoverable under this Agreement shall be up to but not exceeding the amount for any one loss occurring, as set out in the Schedule.

Underlying Reinsurance

² The Company has underlying layer(s) of excess of loss reinsurance as set out in the schedule in respect of any one loss occurring; recoveries under such layer(s) shall be disregarded in computing the ultimate net loss hereunder.

Co-reinsurance

³ The Company shall participate and retain for its' net account, i.e. not reinsured in any way, a co-reinsurance share as set out in the schedule attached.

Article 5

Ultimate net loss

¹ The term “ultimate net loss” shall mean the sum actually paid by the Company in settlement of losses or liability including expenses of litigation, if any, and all other reasonable allocated loss expenses of the Company excluding salaries of Company employees, and general office expenses or any other unallocated expenses.

² Salvages, recoveries and payments from third parties, including recoveries from all other reinsurers, whether collected or not, excluding underlying layers of excess of loss reinsurance provided herein shall be first deducted from such amount to arrive at the amount of liability, if any, attaching hereunder.

³ All salvages, recoveries or payments recovered or received subsequent to a loss settlement under this agreement shall be applied as if recovered or received prior to the aforesaid settlement and all necessary adjustments shall be made by the parties hereto.

⁴ Nothing in this article shall be construed to mean that losses under this agreement are not recoverable until the ultimate net loss of the Company has been finally ascertained.

Article 6

Net retained lines

¹ This Agreement applies only to that portion of any insurance or reinsurance which the Company acting in accordance with its established practices retains net for its own account.

² The Reinsurer’s liability hereunder shall not be increased due to any error or omission which results in the Company’s net retention being larger than it would normally have been neither by the Company’s failure to reinsure in accordance with its established practice, nor by the Company’s inability to collect from any other reinsurer any amounts which may have been due from them whether such inability arises from the insolvency of such other reinsurer or for any reason whatsoever.

Article 7

Loss happening definition/Allocation of losses

¹ Reinsurance coverage is provided for losses happening during the term of this agreement pursuant to original policies properly allocated to it.

² For the purpose of this agreement “losses happening” is defined as follows:

- a) the date on which the loss is caused; if the original policy is written on a loss causation basis, or
- b) the date on which the loss occurs; if the original policy is written on an occurrence basis, or
- c) the date on which the loss is discovered; if the original policy is written on a discovery basis, or
- d) the date on which the claim is made if the original policy is written on a claims made basis.

³ In the case where an original policy makes no special provision for the aggregation of a series of losses, this agreement provides the following: multiple individual losses arising from a set of related circumstances, determined in light of time and geographical factors, and furthermore, arising from a common cause, shall be aggregated into one single loss and be attributed to the date of the first loss, irrespective of the actual dates of each individual loss.

⁴ For the purpose of this agreement, all individual losses arising from a set of related circumstances, determined in light of time and geographical factors, and furthermore, arising from a common cause, will be treated as one single loss, without consideration to the number of individual losses, or the number of original policies affected.

⁵ In the case that the original policy, pursuant to a claims series clause contained therein, provides for a more comprehensive and inclusive aggregation of multiple losses into one single loss than provided for in this agreement, such treatment according to the original policy will take precedence over the aggregation provisions of,

and be incorporated into, this agreement.

⁶ When a loss, due to long term development, and/or unclear original policy terms, and/or conflicting allocation criteria of various potentially applicable original policies, cannot be fixed or attributed to a particular date as specified in paragraph a), for the purpose of this agreement, the loss will be allocated to the date when the first affected insured first informed his insurer about the knowledge of the loss in writing.

⁷ The definition of the term “loss happening” with regards to specific covered lines of business if any, shall be as that defined in the schedule.

⁸ However, the duration and extent of any “loss happening” so defined shall be limited to:

- a) 72 consecutive hours as regards hurricane, typhoon, windstorm, rainstorm, hailstorm, tornado
- b) 72 consecutive hours as regards earthquake, tidal wave, volcanic eruption
- c) 72 consecutive hours and within the limits of one city, town or village as regards strike, riot, civil commotion and malicious damage risks (SRCC & MD)

and no individual loss from whatever insured peril, which occurs outside these periods or areas, shall be included in that “loss happening”.

⁹ The Company may choose the date and time when any such period of consecutive hours commences and, if any event is of greater duration than one of the above periods, the Company may divide that event into two or more “loss happenings” provided no two periods overlap and no period commences earlier than the date and time of the first recorded individual loss to the Company in that event.

Article 7a

Loss event/Allocation of losses

¹ Reinsurance coverage is provided for losses occurring during the term of this agreement pursuant to original policies properly allocated

to it.

² In the case where an original policy makes no special provision for the aggregation of a series of losses, this reinsurance agreement provides the following: multiple individual losses arising from a set of related circumstances, determined in light of time and geographical factors, and furthermore, arising from a common cause, shall be aggregated into one single loss and be attributed to the date of the first loss, irrespective of the actual dates of each individual loss.

³ For the purpose of this agreement, all individual losses arising from a set of related circumstances, determined in light of time and geographical factors, and furthermore, arising from a common cause, will be treated as one single loss, without consideration to the number of individual losses, or the number of original policies affected.

⁴ In a case where an original policy, pursuant to a claims series clause contained therein, provides for a more comprehensive and inclusive aggregation of multiple losses into one single loss than provided for in this agreement, such treatment according to the original policy will take precedence over the aggregation provisions of, and be incorporated into, this agreement.

⁵ When a loss, due to long term development, and/or unclear original policy terms, and/or conflicting allocation criteria of various potentially applicable original policies, cannot be fixed or attributed to a particular date as specified in article 7 (1), for the purpose of this agreement, the loss will be allocated to the date when the first affected insured first informed his insurer about the knowledge of the loss in writing.

⁶ The definition of the term “loss occurring” with regards to specific covered lines of business if any, shall be as that defined in the Schedule.

⁷ However, during the duration and extent of any “loss occurring” so defined shall be limited to:

- a) 72 consecutive hours as regards hurricane, typhoon, windstorm, rainstorm, hailstorm, tornado

- b) 72 consecutive hours as regards earthquake, tidal wave, volcanic eruption
- c) 72 consecutive hours and within the limits of one city, town or village as regards strike, riot, civil commotion and malicious damage risks (SRCC & MD)

and no individual loss from whatever insured peril, which occurs outside these periods or areas, shall be included in that "loss occurring".

⁸ The Company may choose the date and time when any such period of consecutive hours commences and, if any event is of greater duration than on of the above periods, the Company may divide that event into two or more "loss occurrences" provided no two periods overlap and no period commences earlier than the date and time of the first recorded individual loss to the Company in that event.

Article 8

Interest on loss payments

¹ Any interest on loss payments recoverable in the loss account shall be dealt with separately and shall be attributed to the amounts of retention and cover in the same proportion as the indemnity.

² In cases where no distinction is made between capital and interest (such as compromise settlements or where the ruling of the court does not mention interest), the total indemnity shall be established on the basis of the value of the total indemnity on the day the loss happened taking into consideration the rate set out in the schedule and the difference thereby resulting shall constitute the interest.

Article 8a

Interest on loss payments

¹ Any interest on loss payments recoverable in the loss account shall be dealt with separately and shall be attributed to the amounts of retention and cover in the same proportion as the indemnity.

² In cases where no distinction is made between capital and interest (such as compromise settlements or where the ruling of the court does not mention interest), the total indemnity shall be established on

the basis of the value of the total indemnity on the day the loss occurred taking into consideration the rate set out in the schedule and the difference thereby resulting shall constitute the interest.

Article 9

Losses in foreign currency

¹ In respect of losses sustained by the Company in a currency other than that in which the monetary limits of this agreement are stated, the Reinsurer's liability shall be calculated as follows:

- a) The retention of the Company and the liability of the Reinsurer as expressed in the relevant part of the schedule shall be converted into the currency in which the loss is to be paid. The currency conversion shall be calculated at the rate of exchange ruling on the commencement date of this agreement period.
- b) In the event the ultimate net loss exceeds the retention (indexed as per index clause) as converted above, the amount up to the limit of indemnity shall be converted (from the currency in which the loss was settled) into the main currency. The currency conversion shall be calculated at the rate of exchange at the date of each payment.

² In respect of losses sustained by the Reinsured requiring payment in more than one currency, the following shall apply:

- a) The ultimate net loss in each currency shall be converted into the main currency at the rate of exchange used at the commencement date of the reinsurance period. This determines the percentage share that each currency bears to the ultimate net loss.
- b) Each percentage share is then applied to this agreement's retention and limit of indemnity resulting in corresponding amounts for each currency (expressed in the main currency).
- c) These amounts are then being converted into the currencies in which the loss is to be paid at the rate of exchange used at the commencement date of the reinsurance period.

d) In the event the ultimate net loss in one of the currencies exceeds the retention for this currency (indexed as per Index clause) as converted above, the amount up to the limit of indemnity shall be converted into the main currency. The currency conversion shall be calculated at rate of exchange at the date of each payment of insurance compensation.

³ Rate of exchange shall mean the rate of exchange (selling price) as published in any recognised international economic journal.

Article 10

Index clause

Variations in monetary values of the retention and limits of this agreement shall be subject to the provisions of the index clause set out in the schedule.

Article 11

Reinsurance premium

¹ The Company shall pay to the Reinsurer a deposit premium for each agreement period in the amount and manner as set out in the schedule.

² At the end of each agreement period and within 60 (sixty) days thereof, the said deposit premium shall be adjusted to an amount equal to the premium rate as indicated in the Schedule, and applied to the company's premium income or any other premium rate basis as indicated in the schedule, subject, however, to a minimum premium as set out in the schedule. The balance from the above adjustment shall be stated in the annual statement of account, article 17.

³ The term "premium income" shall mean the "gross net premium income" of the Company in respect of the lines of business described in the schedule reinsured hereunder during each agreement period, less returned premiums, cancelled premiums and premiums paid for reinsurance, recoveries under which accrue to the benefit of this agreement.

⁴ In respect of the Company's "gross net premium income" in currencies other than that as stated in the schedule, the Company shall for the purpose of determining the "Gross Net Premium Income"

convert such premiums at the rates of exchange, ruling in the Company's books. Should any conversions be required for which the Company does not have applicable rates of exchange in its books, the official rates (e.g. selling price as published in any recognised international economic journal) valid between such currencies at the end of this agreement period shall be applied. The official rates of exchange as stated above shall also be applicable if the rates of exchange between such currencies have fluctuated by more than 5% during each agreement period. If this agreement is terminated prior to its termination date, the rate of exchange used shall be on the date of termination of this agreement.

Article 11a

Reinsurance premium

¹ The Company shall pay to the Reinsurer a deposit premium for each agreement period in the amount and manner as set out in the schedule.

² At the end of each agreement period and within 60 (sixty) days thereof, the said deposit premium shall be adjusted to an amount equal to the premium rate as indicated in the schedule, and applied to the Company's premium income or any other premium rate basis as indicated in the schedule, subject, however, to a minimum premium as set out in the schedule. The balance from the above adjustment shall be stated in the annual statement of account, article 17.

³ The final rate for each year shall be calculated as follows:

- a) By multiplying the burning cost of the first layer of this agreement during the treaty period by the loading factor mentioned in the schedule subject to the minimum rate and maximum rate mentioned in the schedule.
- b) The burning cost shall be calculated by dividing the losses incurred on the basis of the first layer of this agreement by the reinsured's gross net earned premium for the same period and expressing the result as a percentage.
- c) Losses incurred on the basis of this agreement shall mean the actual losses sustained by the first layer of this agreement.

Losses shall include both settled and outstanding losses.

- d) Where a calculation includes outstanding losses such calculation shall be provisional and shall be adjusted annually until such time as all such losses are settled and a final calculation is possible.

⁴ The term “premium income” shall mean the “gross net premium income” of the Company in respect of the lines of business described in the schedule reinsured hereunder during each agreement period, less returned premiums, cancelled premiums and premiums paid for reinsurance, recoveries under which accrue to the benefit of this agreement.

⁵ In respect of the Company’s “gross net premium income” in currencies other than that as stated in the schedule, the Company shall for the purpose of determining the “gross net premium income” convert such premiums at the rates of exchange, ruling in the Company’s books. Should any conversions be required for which the Company does not have applicable rates of exchange in its books, the official rates (e.g. selling price as published in any recognised international economic journal) valid between such currencies at the end of this agreement period shall be applied. The official rates of exchange as stated above shall also be applicable if the rates of exchange between such currencies have fluctuated by more than 5% during each agreement period. If this agreement is terminated prior to its termination date, the rate of exchange used shall be on the date of termination of this agreement.

Article 12

Notification of claims

Notwithstanding anything to the contrary contained in this agreement it is a condition precedent to the Reinsurer’s liability under this agreement that:

¹ The Company shall give immediate written notice to the Reinsurer of any claim where the potential loss or sum claimed amounts to or exceeds the percentage of the Company’s nominal retention as set out in the schedule as well as providing all information on the circumstances of the loss, legal situation and the estimated amount of damage.

² Further, the Company shall give immediate written notice to the Reinsurer of any claim of the type specified in the schedule, irrespective of the potential loss or sum claimed and without prior examination of questions relating to liability and cover.

Article 13

List of outstanding claims

The Company shall provide the Reinsurer, at the end of each agreement period and within 60 days thereof, with a list of all outstanding claims showing for each loss, which parts have been paid, all loss reserves as well as the total estimated amount for which the Reinsurer may be liable. This list shall be broken down by each year of loss happening and by each class of risk.

Article 13a

List of outstanding claims

The Company shall provide the Reinsurer, at the end of each agreement period and within 60 days thereof, with a list of all outstanding claims showing for each loss, which parts have been paid, all loss reserves as well as the total estimated amount for which the Reinsurer may be liable. This list shall be broken down by each year of loss occurring and by each class of risk.

Article 14

Claim settlement

¹ Claims shall be settled by the Company.

² All claim settlements made by the Company shall be binding upon the Reinsurer, provided they are within the terms of the original insurances and within the terms of this Agreement.

³ The Reinsurer undertakes to pay all amounts falling to its' share upon reasonable evidence of the amount actually paid being given by the Company.

Article 15

Right to associate on claim settlements

¹ The Reinsurer shall have the right at its discretion to associate with the Company in the investigation, defence and settlement of any claim which involves or is likely to involve the reinsurance provided under this agreement.

² Should the Reinsurer decide to exercise its discretion in relation to article 15 (1) the Company shall cooperate in every respect with the Reinsurer and any other person or persons designated by the Reinsurer in the investigation, defence and settlement of any such claim notified to the Reinsurer as aforesaid and the Company shall not without informing the Reinsurer or its representative settle any such claim.

³ If the Reinsurer chooses to exercise its discretion it is understood and agreed by both parties that such an exercise of its rights shall serve as a limitation to its obligations under article 14.

Article 16

Errors and omissions

¹ Inadvertent errors and omissions of an administrative nature only, shall not relieve either party hereto from any liability which should properly attach to it, provided such errors and omissions are rectified immediately upon discovery thereof.

² This article shall not override the provisions of any other specific terms and conditions of this agreement, nor shall it increase or extend the liability which the Reinsurer would have had under this agreement if such error and omission had not occurred.

Article 17

Annual statement of accounts

¹ At the end of each agreement period and within 60 (sixty) days thereof, the Company shall render an annual statement of account drawn up in the main currency of this agreement.

² The annual statement of account shall comprise the following items each separated by the different classes of business reinsured hereunder and indicating the relevant participation percentages taken up by the Reinsurer:

- a) the “gross net premium income” written in each agreement period, which shall be taken as the basis for the reinsurance premium calculation
- b) the annual reinsurance premium payable by the Company to the Reinsurer, broken down into:
 - i) the deposit premium already paid, as per article 11 (1)
 - ii) any further premium payments due; in particular premium adjustments, as per article 11 (2)
- c) outstanding claims as per article 13
- d) deposits and interest on deposits if any
- e) any other items deemed necessary.

³ The Company shall pay any balance due to the Reinsurer at the same time as the account is submitted. The Reinsurer shall pay any balance due to the Company at the same time as the account is confirmed, at the latest however within four weeks after receipt of the statement of account. Should the Reinsurer be unable to confirm the account in its entirety, the confirmed portion of the balance shall nevertheless be paid immediately. As soon as the account has been fully confirmed, the difference shall be paid immediately by the debtor.

Article 18

Main currency and payment of currency

The term “main currency” as used in this agreement shall mean the currency as expressed in the limit of indemnity within article 4. All payments between the parties shall be made in the main currency unless otherwise specifically stated in the schedule. In the event that payments are made in another currency, if stated in the schedule, then any currency conversion shall apply the official rate of exchange at the date of each respective payment. Official rate of exchange shall mean the rate of exchange (selling price) as published in any recognised international economic journal.

Article 19

Delay in payment

¹ Any amount due by either party to this agreement which is outstanding one month after the date on which payment is due shall be subject to the payment of interest by the debtor party as from the expiry of the one month period of grace at the rate set out in the schedule.

² Should the currency for payment under this agreement be different from the main currency, the debtor party shall pay the creditor party's loss through currency fluctuation in case of delay in payment if the difference in exchange exceeds 5%.

Article 20

Set-off

Either party may at its discretion set off against any amounts due from the other party under this agreement or any other agreements between the parties any amounts which are due under this agreement or those other agreements, notwithstanding whether the amount refers to account balances or loss payments, life or non-life business, reinsurance or retrocession business.

Article 21

Deposits

Should deposits be compulsorily required by law, the parties hereto agree to limit such deposits to the legal minimum. The manner and form that such deposits shall take is stipulated in the schedule.

Article 22

Inspection of records

¹ The Reinsurer or its duly authorised representatives shall have the right to examine at the offices of the Company during the currency of this agreement or anytime thereafter, all books, records and accounts of the Company relating to business which is the subject of this agreement. Notification of such visits shall normally be given two weeks in advance and even in urgent cases at least forty-eight hours in advance.

² Upon request by the Reinsurer, the Company shall supply at the Reinsurer's expense, copies of the whole or any part of the Company's records, books, accounts and any documents relating to business which is the subject of this agreement.

³ It is agreed that the Reinsurer's right of inspection shall continue as long as either party has a claim against the other arising out of this agreement or when the Reinsurer proves at any time that he has legitimate interests that exist even if this agreement has been terminated.

⁴ Where arbitration or judicial proceedings are pending or initiated between the parties, the Reinsurer shall exercise his right of inspection through the appointment of any authorised persons designated by the judge or arbitrator.

Article 23

Commencement and duration

The effective date of this agreement as well as its duration of either for a definite period or indefinite period are as set out in the schedule.

Article 24

Termination due to expiry

If this agreement is concluded for a definite period, the termination date is stated in the schedule.

Article 25

Ordinary termination

¹ If this agreement is concluded for an indefinite period, the parties shall have the right to cancel all or only specified classes of business by giving the other three months' notice of cancellation, expiring as at the end of each agreement period set out in the schedule.

² Notice of termination or modification shall be given in writing and addressed to the other party at its head office or at any other address which it may have designated for such purpose. Notice of termination or modification shall be deemed to be served upon receipt.

³ For the purpose of this clause, written notice shall be deemed to include telefax and telegram.

Article 26

Immediate termination

¹ Either party shall have the right to terminate this agreement at any time with immediate effect upon the following events:

- a) The other party transfers control by change in ownership or otherwise.
- b) The other party reduces its paid up capital in order to pay its debts.
- c) The other party is unable to pay its due debts or its liabilities exceed its assets.
- d) The authority to transact any class of insurance or reinsurance in respect of either party is withdrawn, suspended or made conditional by any court or regulatory authority.
- e) The performance of a part of this agreement is prohibited or rendered impossible de jure or de facto.
- f) The other party fails seriously to comply with the terms and conditions of this agreement.
- g) The country in which the other party has its domicile or head office becomes involved in armed hostilities with another country, whether war be declared or not, or is partly or completely occupied by another power, or is affected by civil war.

² Either party affected by any of the above mentioned events shall notify the other party in writing within thirty days after knowledge of its occurrence, unless such an event is obviously known by the other party.

³ Either party shall exercise the right of termination by giving written notice to the other party within thirty days after obtaining knowledge of any of the above mentioned events. Notice of termination shall be

deemed to be served upon despatch or, where communications between the parties are interrupted, also upon attempted despatch.

⁴ For the purpose of this clause, written notice shall be deemed to include telefax and telegram.

⁵ The party receiving notice of termination with immediate effect shall have the right to terminate with effect from the same date, all other reinsurance or retrocession treaties existing between the two parties, such notice of termination to be given in writing with 14 days following receipt of the other party's notice of immediate termination.

Article 27

Automatic termination

¹ This agreement shall terminate automatically and simultaneously upon the following events:

- a) The performance of the whole agreement is prohibited or rendered impossible de jure or de facto.
- b) An order of adjudication or liquidation or any other order that initiates liquidation proceedings in respect of either party by any court or regulatory authority.

² Either party affected by any of the above mentioned events shall notify the other party immediately after its occurrence, unless such event is obviously known by the other party.

Article 28

Change of law

The cover granted by this agreement relates to the various statutes and the like which are in force at inception of this agreement. In the event of any change in the law by which the Reinsurer's liability hereunder is materially increased or extended, the parties hereto agree to take up for immediate discussion a suitable revision to the terms of this agreement. Failing agreement on a revision this agreement shall operate from the effective date of a change of law as if the change had not occurred.

Article 29

Customs and choice of law

¹ The customs and usages of the insurance and reinsurance business in the relevant market as well as the law stated in the schedule as the applicable law of this agreement shall apply to this agreement.

Should there be a conflict between the provisions of this agreement and the customs and usages or the applicable law, this agreement shall prevail. Should there be a conflict between the customs and usages and the applicable law, the customs and usages shall prevail.

² This article remains valid, should this agreement be void.

Article 30

Dispute resolution

¹ If any disputes between the parties arising out of or in connection with this agreement including formation and validity and whether arising during or after the period of this Agreement have not been settled through negotiation, both parties agree to try in good faith to settle such dispute by nonbinding mediation, before resorting to arbitration in the manner set out below.

² The arbitration tribunal (tribunal) shall unless the parties agree otherwise consist of persons (including those who have retired) with not less than ten years experience of international insurance or reinsurance business as persons engaged in such business or advising such business in a professional capacity.

³ Unless the parties agree upon a single arbitrator within thirty days of one receiving a written request from the other for arbitration, the claimant (the party requesting arbitration) shall appoint one arbitrator (the first arbitrator) and shall give written notice thereof to the other party (the respondent). Within thirty days of receiving such notice, the respondent shall appoint another arbitrator (the second arbitrator) and give written notice to the claimant failing which the claimant may apply to the appointor named below to appoint the second arbitrator.

⁴ Once appointed, the first and second arbitrators shall within thirty days of the appointment of the second arbitrator appoint a third arbitrator. Should they fail to do so then either of them or of the

parties may apply to the appointor for the appointment of the third arbitrator. However appointed the third arbitrator shall be chairman.

⁵ Upon acceptance of the appointment by the third arbitrator the tribunal shall be constituted. The three arbitrators shall decide by majority. If a majority cannot be achieved the decision of the third arbitrator shall prevail.

⁶ If an arbitrator, subsequent to his appointment, is unwilling or unable to act, a new arbitrator shall be appointed to replace them by the procedure set out above.

⁷ Unless otherwise extended or ordered by the tribunal, within 15 days of the appointment of the third arbitrator, each party shall submit its case to the tribunal within 45 days of the appointment of the third arbitrator.

⁸ The tribunal shall not be bound by the formal rules of evidence. The tribunal shall have power to fix all procedural rules relating to the conduct of the arbitration.

⁹ The tribunal shall within 60 days of reaching its decision in the arbitration issue to the parties its written and reasoned award. The award shall be final and binding on the parties who covenant to carry out the same. If either of the parties should fail to carry out the award the other may apply for its enforcement to a court of competent jurisdiction in any country in which the party in default is domiciled or has assets or carries on business.

¹⁰ All costs of the arbitration shall be at the discretion of the tribunal who may direct to and by whom and in what manner they shall be paid.

¹¹ The appointor shall be as stated in the schedule.

¹² The seat of the arbitration shall be as stated in the schedule.

¹³ This article remains valid, should the agreement be void.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorised representatives as of the following dates:

In _____, this _____ day of _____, 20 .

And in _____, this day of _____, 20 .

Schedule

to the combined liability excess of loss agreement

Scope of agreement (Article 1)

Period of cover

1st January 2016 to 31st December 2016 both days inclusive.
(Losses happening basis/Losses occurring basis)

Classes of business protected

- a) Motor
 - i) Motor third party bodily injury
 - ii) Motor third party property damage
 - iii) Motor own damage
 - iv) Personal accident under motor policies
- b) Workmen's compensation and employers' liability
- c) Public liability
 - i) Comprehensive general liability
 - ii) Products liability
 - iii) Professional indemnity
- d) Personal accident

Territorial scope (Article 1, 2nd line)

Africa

Territorial scope (Article 1, last line)

Africa

Exclusions
(Article 2)

As per article 2 of the agreement

Deductibles (original)
(Article 2.3)

As per original

Nuclear risks exclusion
(Article 2.9)

As per attachment (*here not included*)

Co-insurance
(Article 3, para 4)

Not applicable

Limit of indemnity
(Article 4, para 1)

Amount of cover and deductible

1st layer

\$25,000 ultimate net loss each and every loss or series of losses arising out of one event excess of \$25,000 ultimate net loss each and every loss or series of losses arising out of one event

Subject to an annual aggregate limit of \$150,000 (unindexed)

2nd layer

\$50,000 ultimate net loss each and every loss or series of losses arising out of one event excess of \$50,000 ultimate net loss each and every loss or series of losses arising out of one event

Subject to an annual aggregate limit of \$150,000 (unindexed)

3rd layer

\$100,000 ultimate net loss each and every loss or series of losses arising out of one event excess of \$100,000 ultimate net loss each and every loss or series of losses arising out of one event

Subject to an annual aggregate limit of \$200,000 (unindexed)

4th layer

Unlimited ultimate net loss each and every loss or series of

losses arising out of one event for **motor third party bodily injury** only, and for other classes \$800,000 ultimate net loss each and every loss or series of losses arising out of one event excess of \$200,000 ultimate net loss each and every loss or series of losses arising out of one event

Subject to an annual aggregate limit of \$800,000 (unindexed) for the other classes and 2 losses in excess of \$200,000 for the unlimited class

Underlying reinsurance

(Article 4, para 2)

Not applicable

Co-reinsurance

(Article 4, para 3)

10% in all layers

Reinsurer's share

(Article 4, para 1)

1st layer: 90%

2nd layer: 90%

3rd layer: 90%

4th layer: 90%

Net retained lines

(Article 6)

The Company's net retained account after any obligatory cession to National Reinsurers

Interest on loss payments

(Article 8, para 2)

Not applicable

Index clause

(Article 10)

As per attachment no. 1

Reinsurance premium

(Article 11, para 1)

Deposit premium, rate and minimum premium

1st layer

Deposit premium \$35,000 payable annually in advance and adjustable at a rate of 0.875% of the gross net premium accounted during the year

Minimum premium: \$35,000

2nd layer

Deposit premium \$32,000 payable annually in advance and

adjustable at a rate of 0.8% of the gross net premium accounted during the year
Minimum premium: \$32,000

3rd layer

Deposit premium \$15,000 payable annually in advance and adjustable at a rate of 0.375% of the gross net premium accounted during the year
Minimum premium: \$15,000

4th layer

Deposit premium \$15,000 payable annually in advance and adjustable at a rate of 0.375% of the gross net premium accounted during the year
Minimum premium: \$15,000

Notification of claims (Article 12, para 1)

Losses likely to exceed 70% of the deductible.

Notification of claims (Article 12, para 2)

As per attachment no. 2

Main currency and payment of currency (Article 18)

Not applicable

Delay in payment (Article 19)

Not applicable

Deposits (Article 21)

Not applicable

Commencement and duration (Article 23)

As per 'Scope of Agreement' (Article 1)

Termination due to expiry (Article 24)

As per 'Scope of Agreement' (Article 1)

<u>Ordinary termination</u> (Article 25, para 1)	Not applicable
<u>Customs and choice of law</u> (Article 29)	UK Law
<u>Dispute resolution, appointor</u> (Article 30, para 11)	Competent person or body: The current chairman of ARIAS UK
<u>Dispute resolution</u> (Article 30, para 12)	Seat of arbitration is London
<u>Additional conditions</u>	None
<u>Intermediary</u>	N/A

Attachment 1

INDEX CLAUSE:

It is the intention of this Agreement that the Indemnity and the Deductible shall retain their relative monetary value which existed at the date specified in the Schedule and such relative monetary value shall be deemed to be based on the index (specified hereafter) applying at such date (hereinafter called the base index).

In respect of any loss settlement(s) made under this Agreement the Reinsured shall submit a list of payments comprising such loss settlement(s) showing the amount(s) paid and the date(s) of payment. Each payment (including legal costs) to one victim in respect of a bodily injury claim, excluding continuing regular payments, shall be included and the index at date of payment as defined below shall be that applying at the time that each payment for compensatory damages is made. The amount of each such payment shall be adjusted to its relative value at the date specified in the Schedule by means of the following formula:-

$$\frac{\text{Amount of Payment} \times \text{Base Index.}}{\text{Index at date of payment.}} = \text{Adjusted Payment Value.}$$

If the index at date of payment does not exceed the base index by 10%, the amount of payment shall be used as the Adjusted Payment Value for the amount.

All actual payments and adjusted payment values shall be separately totalled and the Indemnity and the Deductible shall then be multiplied by the fraction:-

$$\frac{\text{Total of Actual Payments.}}{\text{Total of Adjusted Payment Values.}}$$

Definitions.

(a) Index:

(i) In respect of an award resulting in continuing regular payments, the index or indices to be applied shall be that to which such award is linked and for all other payments the index to be applied shall be that for the territory in which the claim is made as shown under the heading "Consumer Prices" in the monthly "International Financial Statistics" published by the International Monetary Fund.

If this publication does not contain a Consumer Prices index for the territory concerned, then the index to be applied shall be that for Wage Rates or Earnings, or an alternative I.M.F. index to be agreed between the parties hereto.

If this publication does not contain any indices or any mutually acceptable indices for the territory concerned, then an alternative publication shall be mutually agreed between the parties hereto.

(ii) The base index for each loss settlement shall be the latest available index appearing in the edition specified in the Schedule of the appropriate publication specified in Section (i) above.

(iii) The index at date of payment shall be the latest available index appearing in the edition of the publication for the month in which payment is made and/or the index at the date of the first continuing regular payment and subsequently as used in any adjustment thereof.

(b) The date of payment shall be deemed to be as follows:-

(i) Where no award is made by the Courts the actual date upon which settlement is agreed by the Reinsured.

(ii) The date an award is made by a Court (if no Appeal is made).

(iii) The date an award is made by the Appeal Court if the case goes to Appeal. However, in the event that the Appeal Court reduces the damages awarded by the Lower Court, other than changes in the apportionment of liability, then Section (ii) above shall apply.

(iv) The date from which continuing regular payments commence or in the event that such payments are adjusted the date from which such adjustment takes effect.

Attachment 2

CLAIMS COOPERATION

The Reinsured shall report as soon as possible all claims for losses estimated to amount to 70% or more of the underlying loss for this Agreement.

The Reinsured shall keep the Reinsurers informed of all significant developments relating to such claims. The Reinsurers shall if they wish be entitled to participate consultatively in the settlement of claims and in the estimation of loss reserves.

The Reinsured shall furnish the Reinsurers with such documents and papers as they may require in connection with any loss in which the Reinsurers may be interested hereunder.

The Reinsured shall furnish to the Reinsurers at the end of each year a list of any unsettled claims of which they are aware, and which may cause a claim under the Agreement together with an estimate of liability.

APPENDIX D

Standard Property Policy

STANDARD PROPERTY POLICY

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

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

Other words and phrases that appear in quotation marks have special meaning. Refer to Section I., Definitions.

A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

1. Covered Property

Covered Property, as used in this policy, means the type of property described in this section, **A.1.**, and limited in **A.2.**, Property Not Covered, if a Limit of Insurance is shown in the Declarations for that type of property.

a. Building, meaning the building or structure described in the Declarations, including:

- (1) Completed additions;
- (2) Fixtures, including outdoor fixtures;
- (3) Permanently installed:
 - (a) Machinery; and
 - (b) Equipment;
- (4) Personal property owned by you that is used to maintain or service the building or structure or its premises, including:
 - (a) Fire-extinguishing equipment;
 - (b) Outdoor furniture;
 - (c) Floor coverings; and
 - (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;
- (5) If not covered by other insurance:
 - (a) Additions under construction, alterations and repairs to the building or structure;
 - (b) Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the building or structure.

b. Your Business Personal Property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises, consisting of the following unless otherwise specified in the Declarations or on the Your Business Personal Property – Separation Of Coverage form:

- (1) Furniture and fixtures;
- (2) Machinery and equipment;
- (3) "Stock";
- (4) All other personal property owned by you and used in your business;
- (5) Labor, materials or services furnished or arranged by you on personal property of others;
- (6) Your use interest as tenant in improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
 - (a) Made a part of the building or structure you occupy but do not own; and
 - (b) You acquired or made at your expense but cannot legally remove;
- (7) Leased personal property for which you have a contractual responsibility to insure, unless otherwise provided for under Personal Property Of Others.

c. Personal Property Of Others that is:

- (1) In your care, custody or control; and
- (2) Located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises.

However, our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

2. Property Not Covered

Covered Property does not include:

- a. Accounts, bills, currency, food stamps or other evidences of debt, money, notes or securities. Lottery tickets held for sale are not securities;
- b. Animals, unless owned by others and boarded by you, or if owned by you, only as "stock" while inside of buildings;
- c. Automobiles held for sale;
- d. Bridges, roadways, walks, patios or other paved surfaces;
- e. Contraband, or property in the course of illegal transportation or trade;
- f. The cost of excavations, grading, backfilling or filling;
- g. Foundations of buildings, structures, machinery or boilers if their foundations are below:
 - (1) The lowest basement floor; or
 - (2) The surface of the ground, if there is no basement;
- h. Land (including land on which the property is located), water, growing crops or lawns;
- i. Personal property while airborne or waterborne;
- j. Bulkheads, pilings, piers, wharves or docks;
- k. Property that is covered under another coverage form of this or any other policy in which it is more specifically described, except for the excess of the amount due (whether you can collect on it or not) from that other insurance;
- l. Retaining walls that are not part of a building;
- m. Underground pipes, flues or drains;
- n. Electronic data, except as provided under the Additional Coverage, Electronic Data. Electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data. This paragraph, **n.**, does not apply to your "stock" of prepackaged software;
- o. The cost to replace or restore the information on valuable papers and records, including those which exist as electronic data. Valuable papers and records include but are not limited to proprietary information, books of account, deeds, manuscripts, abstracts, drawings and card index systems. Refer to the Coverage Extension for Valuable Papers And Records (Other Than Electronic Data) for limited coverage for valuable papers and records other than those which exist as electronic data;
- p. Vehicles or self-propelled machines (including aircraft or watercraft) that:
 - (1) Are licensed for use on public roads; or
 - (2) Are operated principally away from the described premises.

This paragraph does not apply to:

- (a) Vehicles or self-propelled machines or autos you manufacture, process or warehouse;

- (b) Vehicles or self-propelled machines, other than autos, you hold for sale;
 - (c) Rowboats or canoes out of water at the described premises; or
 - (d) Trailers, but only to the extent provided for in the Coverage Extension for Non-owned Detached Trailers;
- q. The following property while outside of buildings:
- (1) Grain, hay, straw or other crops;
 - (2) Fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, trees, shrubs or plants (other than "stock" of trees, shrubs or plants), all except as provided in the Coverage Extensions.

3. Covered Causes Of Loss

- a. Fire.
- b. Lightning.
- c. Explosion, including 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 cause of loss does not include loss or damage by:
 - (1) Rupture, bursting or operation of pressure-relief devices; or
 - (2) Rupture or bursting due to expansion or swelling of the contents of any building or structure, caused by or resulting from water.

The following Covered Causes of Loss do not apply unless Windstorm or Hail, Smoke, Aircraft or Vehicles, Riot or Civil Commotion, Sinkhole Collapse and Volcanic Action is indicated by an "X" in the Declarations:

- d. Windstorm or Hail, but not including:
 - (1) Frost or cold weather;
 - (2) Ice (other than hail), snow or sleet, whether driven by wind or not; or
 - (3) Loss or damage to the interior of any building or structure, or the property inside the building or structure, caused by rain, snow, sand or dust, whether driven by wind or not, unless the building or structure first sustains wind or hail damage to its roof or walls through which the rain, snow, sand or dust enters.

- e. Smoke causing sudden and accidental loss or damage. This cause of loss does not include smoke from agricultural smudging or industrial operations.

- f. Aircraft or Vehicles, meaning only physical contact of an aircraft, a spacecraft, a self-propelled missile, a vehicle or an object thrown up by a vehicle with the described property or with the building or structure containing the described property.

This cause of loss includes loss or damage by objects falling from aircraft.

We will not pay for loss or damage caused by or resulting from vehicles you own or which are operated in the course of your business.

- g. Riot or Civil Commotion, including:

- (1) Acts of striking employees while occupying the described premises; and
- (2) Looting occurring at the time and place of a riot or civil commotion.

- h. Sinkhole Collapse, meaning loss or damage caused by the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:

- (1) The cost of filling sinkholes; or
- (2) Sinking or collapse of land into man-made underground cavities.

- i. Volcanic Action, meaning direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (1) Airborne volcanic blast or airborne shock waves;
- (2) Ash, dust or particulate matter; or
- (3) Lava flow.

All volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

This cause of loss does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss or damage to the described property.

The following Covered Cause of Loss does not apply unless Vandalism is indicated by an "X" in the Declarations:

- j. Vandalism, meaning willful and malicious damage to, or destruction of, the described property.

We will not pay for loss or damage:

- (1) To glass (other than glass building blocks) that is part of a building, structure, or an outside sign; but we will pay for loss or damage to other property caused by or resulting from breakage of glass by vandals.
- (2) Caused by or resulting from theft, except for building damage caused by the breaking in or exiting of burglars.

The following Covered Cause of Loss does not apply unless Sprinkler Leakage is indicated by an "X" in the Declarations:

- k. Sprinkler Leakage, meaning leakage or discharge of any substance from an Automatic Sprinkler System, including collapse of a tank that is part of the system.

If the building or structure containing the Automatic Sprinkler System is Covered Property, we will also pay the cost to:

- (1) Repair or replace damaged parts of the Automatic Sprinkler System if the damage:
 - (a) Results in sprinkler leakage; or
 - (b) Is directly caused by freezing.
- (2) Tear out and replace any part of the building or structure to repair damage to the Automatic Sprinkler System that has resulted in sprinkler leakage.

Automatic Sprinkler System means:

- (a) Any automatic fire-protective or extinguishing system, including connected:
 - (i) Sprinklers and discharge nozzles;
 - (ii) Ducts, pipes, valves and fittings;
 - (iii) Tanks, their component parts and supports; and
 - (iv) Pumps and private fire protection mains.
- (b) When supplied from an automatic fire-protective system:
 - (i) Non-automatic fire-protective systems; and
 - (ii) Hydrants, standpipes and outlets.

4. Additional Coverages

a. Debris Removal

- (1) Subject to Paragraphs (3) and (4), we will pay your expense to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) Debris Removal does not apply to costs to:
 - (a) Extract "pollutants" from land or water; or
 - (b) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in Paragraph (4), the following provisions apply:
 - (a) The most we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.
 - (b) Subject to (a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.
- (4) We will pay up to an additional \$10,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:
 - (a) The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.
 - (b) The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

Therefore, if **(4)(a)** and/or **(4)(b)** apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$10,000.

(5) Examples

The following examples assume that there is no Coinsurance penalty.

EXAMPLE #1

Limit of Insurance:	\$ 90,000
Amount of Deductible:	\$ 500
Amount of Loss:	\$ 50,000
Amount of Loss Payable:	\$ 49,500
	(\$50,000 – \$500)
Debris Removal Expense:	\$ 10,000
Debris Removal Expense Payable:	\$ 10,000
	(\$10,000 is 20% of \$50,000.)

The debris removal expense is less than 25% of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500) is less than the Limit of Insurance. Therefore the full amount of debris removal expense is payable in accordance with the terms of Paragraph **(3)**.

EXAMPLE #2

Limit of Insurance:	\$ 90,000
Amount of Deductible:	\$ 500
Amount of Loss:	\$ 80,000
Amount of Loss Payable:	\$ 79,500
	(\$80,000 – \$500)
Debris Removal Expense:	\$ 30,000
Debris Removal Expense Payable	
Basic Amount:	\$ 10,500
Additional Amount:	\$ 10,000

The basic amount payable for debris removal expense under the terms of Paragraph **(3)** is calculated as follows: \$80,000 (\$79,500 + \$500) x .25 = \$20,000; capped at \$10,500. The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of Paragraph **(4)**, because the debris removal expense (\$30,000) exceeds 25% of the loss payable plus the deductible (\$30,000 is 37.5% of \$80,000), and because the sum of the loss payable and debris removal expense (\$79,500 + \$30,000 = \$109,500) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$10,000, the maximum payable under Paragraph **(4)**. Thus the total payable for debris removal expense in this example is \$20,500; \$9,500 of the debris removal expense is not covered.

b. Preservation Of Property

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss or damage to that property:

- (1)** While it is being moved or while temporarily stored at another location; and
- (2)** Only if the loss or damage occurs within 30 days after the property is first moved.

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$1,000, unless a higher limit is shown in the Declarations, for your liability for fire department service charges:

- (1)** Assumed by contract or agreement prior to loss; or
- (2)** Required by local ordinance.

No Deductible applies to this Additional Coverage.

d. Pollutant Clean-up And Removal

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

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

The most we will pay under this Additional Coverage for each described premises is \$10,000 for the sum of all covered expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

e. Electronic Data

- (1) Under this Additional Coverage, electronic data has the meaning described under Property Not Covered, Electronic Data.
- (2) Subject to the provisions of this Additional Coverage, we will pay for the cost to replace or restore electronic data which has been destroyed or corrupted by a Covered Cause of Loss. To the extent that electronic data is not replaced or restored, the loss will be valued at the cost of replacement of the media on which the electronic data was stored, with blank media of substantially identical type.
- (3) The Covered Causes of Loss applicable to Your Business Personal Property apply to this Additional Coverage, Electronic Data, subject to the following:
 - (a) If this Policy is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage, Electronic Data.
 - (b) The Covered Causes of Loss include a virus, harmful code or similar instruction introduced into or enacted on a computer system (including electronic data) or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for 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.

- (4) The most we will pay under this Additional Coverage, Electronic Data, is \$2,500 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 premises, 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.

f. Limited Coverage For "Fungus", Wet Rot, Dry Rot And Bacteria

- (1) The coverage described in f.(2) only applies when the "fungus", wet or dry rot or bacteria is the result of one or more of the following causes 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.
 - (a) A Covered Cause of Loss other than fire or lightning; or
 - (b) Flood, if the Flood Coverage Endorsement applies to the affected premises.
- (2) We will pay for loss or damage by "fungus", wet or dry rot or bacteria. As used in this Limited Coverage, the term loss or damage means:
 - (a) Direct physical loss or damage to Covered Property caused by "fungus", wet or dry rot or bacteria, including the cost of removal of the "fungus", wet or dry rot or bacteria;
 - (b) The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungus", wet or dry rot or bacteria; and
 - (c) 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 or bacteria are present.

(3) The coverage described under f.(2) of this Limited Coverage 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 Covered Causes of Loss (other than fire or lightning) and Flood which take place in a 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 or bacteria, we will not pay more than a total of \$15,000 even if the "fungus", wet or dry rot or bacteria continues to be present or active, or recurs, in a later policy period.

(4) The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungus", wet or dry rot or bacteria, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

If there is covered loss or damage to Covered Property, not caused by "fungus", wet or dry rot or bacteria, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungus", wet or dry rot or bacteria causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

(5) The terms of this Limited Coverage do not increase or reduce the coverage provided under Paragraph (2) of Covered Cause Of Loss k., Sprinkler Leakage.

5. Coverage Extensions

Except as otherwise provided, the following Extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises.

The following Extensions apply only to property located in the "state" in which the described premises is located.

If a Coinsurance percentage of 80% or more, or a Value Reporting period symbol, is shown in the Declarations, you may extend the insurance provided by this policy as follows:

a. Newly Acquired Or Constructed Property

(1) Buildings

If this policy covers Building, you may extend that insurance to apply to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at locations, other than the described premises, intended for:
 - (i) Similar use as the building described in the Declarations; or
 - (ii) Use as a warehouse.

The most we will pay for loss or damage under this Extension is \$250,000 at each building.

(2) Your Business Personal Property

- (a) If this policy covers Your Business Personal Property, you may extend that insurance to apply to:
 - (i) Business personal property, including such property that you newly acquire, at any location you acquire other than at fairs, trade shows or exhibitions;
 - (ii) Business personal property, including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations; or
 - (iii) Business personal property that you newly acquire, located at the described premises.

The most we will pay for loss or damage under this Extension is \$100,000 at each building.

- (b) This Extension does not apply to:
 - (i) Personal property of others that is temporarily in your possession in the course of installing or performing work on such property; or
 - (ii) Personal property of others that is temporarily in your possession in the course of your manufacturing or wholesaling activities.

(3) Period Of Coverage

With respect to insurance on or at each newly acquired or constructed property, coverage will end when any of the following first occurs:

- (a) This policy expires;
- (b) 30 days expire after you acquire the property or begin construction of that part of the building that would qualify as covered property; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as covered property.

b. Personal Effects And Property Of Others

You may extend the insurance that applies to Your Business Personal Property to apply to:

- (1) Personal effects owned by you, your officers, your partners or members, your managers or your employees. This Extension does not apply to loss or damage by theft.
- (2) Personal property of others in your care, custody or control.

The most we will pay for loss or damage under this Extension is \$2,500 at each described premises. Our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

c. Valuable Papers And Records (Other Than Electronic Data)

- (1) You may extend the insurance that applies to Your Business Personal Property to apply to the cost to replace or restore the lost information on valuable papers and records for which duplicates do not exist. But this Extension does not apply to valuable papers and records which exist as electronic data. Electronic data has the meaning described under Property Not Covered, Electronic Data.

- (2) Under this Extension, the most we will pay to replace or restore the lost information is \$2,500 at each described premises, unless a higher limit is shown in the Declarations. Such amount is additional insurance. We will also pay for the cost of blank material for reproducing the records (whether or not duplicates exist), and (when there is a duplicate) for the cost of labor to transcribe or copy the records. The costs of blank material and labor are subject to the applicable Limit of Insurance on Your Business Personal Property and therefore coverage of such costs is not additional insurance.

d. Property Off-premises

- (1) You may extend the insurance provided by this Coverage Form to apply to your Covered Property while it is away from the described premises, if it is:
 - (a) Temporarily at a location you do not own, lease or operate;
 - (b) In storage at a location you lease, provided the lease was executed after the beginning of the current policy term; or
 - (c) At any fair, trade show or exhibition.
- (2) This Extension does not apply to property:
 - (a) In or on a vehicle; or
 - (b) In the care, custody or control of your salespersons, unless the property is in such care, custody or control at a fair, trade show or exhibition.
- (3) The most we will pay for loss or damage under this Extension is \$10,000.

e. Outdoor Property

You may extend the insurance provided by this Policy to apply to your outdoor fences, radio and television antennas (including satellite dishes), trees, shrubs and plants (other than "stock" of trees, shrubs or plants), including debris removal expense, caused by or resulting from any of the following causes of loss if they are Covered Causes of Loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion;
- (4) Riot or Civil Commotion; or
- (5) Aircraft.

The most we will pay for loss or damage under this Extension is \$1,000, but not more than \$250 for any one tree, shrub or plant. These limits apply to any one occurrence, regardless of the types or number of items lost or damaged in that occurrence.

f. Non-owned Detached Trailers

- (1) You may extend the insurance that applies to Your Business Personal Property to apply to loss or damage to trailers that you do not own, provided that:
 - (a) The trailer is used in your business;
 - (b) The trailer is in your care, custody or control at the premises described in the Declarations; and
 - (c) You have a contractual responsibility to pay for loss or damage to the trailer.
- (2) We will not pay for any loss or damage that occurs:
 - (a) While the trailer is attached to any motor vehicle or motorized conveyance, whether or not the motor vehicle or motorized conveyance is in motion;
 - (b) During hitching or unhitching operations, or when a trailer becomes accidentally unhitched from a motor vehicle or motorized conveyance.
- (3) The most we will pay for loss or damage under this Extension is \$5,000, unless a higher limit is shown in the Declarations.
- (4) This insurance is excess over the amount due (whether you can collect on it or not) from any other insurance covering such property.

Each of these Extensions is additional insurance unless otherwise indicated. The Additional Condition, Coinsurance, does not apply to these Extensions.

B. Exclusions

- 1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

a. Ordinance Or Law

The enforcement of any ordinance or law:

- (1) Regulating the construction, use or repair of any property; or

- (2) Requiring the tearing down of any property, including the cost of removing its debris.

This exclusion, Ordinance Or Law, applies whether the loss results from:

- (1) An ordinance or law that is enforced even if the property has not been damaged; or
- (2) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

b. Earth Movement

- (1) Earthquake, including any earth sinking, rising or shifting related to such event;
- (2) Landslide, including any earth sinking, rising or shifting related to such event;
- (3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;
- (4) Earth sinking (other than sinkhole collapse, if sinkhole collapse is a Covered Cause of Loss), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in **b.(1)** through **(4)** above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

- (5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire or Volcanic Action, we will pay for the loss or damage caused by that fire or Volcanic Action (if Volcanic Action is a Covered Cause of Loss).

c. Governmental Action

Seizure or destruction of property by order of governmental authority.

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

d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

e. Utility Services

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

- (1) Originates away from the described premises; or
- (2) Originates at the described premises, but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply.

Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing a failure of power.

But if the failure or surge of power, or the failure of communication, water or other utility service, results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

f. War And Military Action

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

g. Water

- (1) Flood, surface water, waves, tides, tidal waves, overflow of any body of water, or their spray, all whether driven by wind or not;

- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows from a sewer, drain or sump; or
- (4) Water under the ground surface pressing on, or flowing or seeping through:
 - (a) Foundations, walls, floors or paved surfaces;
 - (b) Basements, whether paved or not; or
 - (c) Doors, windows or other openings.

But if Water, as described in **g.(1)** through **(4)** above, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage (if sprinkler leakage is a Covered Cause of Loss).

h. "Fungus", Wet Rot, Dry Rot And Bacteria

Presence, growth, proliferation, spread or any activity of "fungus", wet or dry rot or bacteria.

But if "fungus", wet or dry rot or bacteria results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

This exclusion does not apply:

- 1. When "fungus", wet or dry rot or bacteria results from fire or lightning; or
- 2. To the extent that coverage is provided in the Additional Coverage – Limited Coverage For "Fungus", Wet Rot, Dry Rot And Bacteria with respect to loss or damage by a cause of loss other than fire or lightning.

Exclusions **B.1.a.** through **B.1.h.** apply whether or not the loss event results in widespread damage or affects a substantial area.

- 2. We will not pay for loss or damage caused by or resulting from:
 - a. Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:
 - (1) Electrical or electronic wire, device, appliance, system or network; or
 - (2) Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (a) Electrical current, including arcing;
- (b) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (c) Pulse of electromagnetic energy; or
- (d) Electromagnetic waves or micro-waves.

But if fire results, we will pay for the loss or damage caused by that fire.

- b. Rupture or bursting of water pipes (other than Automatic Sprinkler Systems if sprinkler leakage is a Covered Cause of Loss) unless caused by a Covered Cause of Loss.
- c. Leakage or discharge of water or steam from any part of a system or appliance containing water or steam (other than an Automatic Sprinkler System if sprinkler leakage is a Covered Cause of Loss), unless the leakage or discharge occurs because the system or appliance was damaged by a Covered Cause of Loss. But we will not pay for loss or damage caused by or resulting from continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.
- d. 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.

- e. Mechanical breakdown, including rupture or bursting caused by centrifugal force.

But if mechanical breakdown results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

- f. Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

C. Limits Of Insurance

The most we will pay for loss or damage in any one occurrence is the applicable Limit of Insurance shown in the Declarations.

The most we will pay for loss or damage to outdoor signs, whether or not the sign is attached to a building, is \$2,500 per sign in any one occurrence.

The amounts of insurance stated in the following Additional Coverages apply in accordance with the terms of such coverages and are separate from the Limit(s) of Insurance shown in the Declarations for any other coverage:

- 1. Fire Department Service Charge;
- 2. Pollutant Clean-up And Removal; and
- 3. Electronic Data.

Payments under the Preservation Of Property Additional Coverage will not increase the applicable Limit of Insurance.

D. Deductible

In any one occurrence of loss or damage (hereinafter referred to as loss), we will first reduce the amount of loss if required by the Coinsurance Condition. If the adjusted amount of loss is less than or equal to the Deductible, we will not pay for that loss. If the adjusted amount of loss exceeds the Deductible, we will then subtract the Deductible from the adjusted amount of loss, and will pay the resulting amount or the Limit of Insurance, whichever is less.

When the occurrence involves loss to more than one item of Covered Property and separate Limits of Insurance apply, the losses will not be combined in determining application of the Deductible. But the Deductible will be applied only once per occurrence.

EXAMPLE #1

(This example assumes there is no Coinsurance penalty.)

Deductible:	\$ 250
Limit of Insurance – Building #1:	\$ 60,000
Limit of Insurance – Building #2:	\$ 80,000
Loss to Building #1:	\$ 60,100
Loss to Building #2:	\$ 90,000

The amount of loss to Building #1 (\$60,100) is less than the sum (\$60,250) of the Limit of Insurance applicable to Building #1 plus the Deductible.

The Deductible will be subtracted from the amount of loss in calculating the loss payable for Building #1:

\$ 60,100
– 250
\$ 59,850
Loss Payable – Building #1

The Deductible applies once per occurrence and therefore is not subtracted in determining the amount of loss payable for Building #2. Loss payable for Building #2 is the Limit of Insurance of \$80,000.

Total amount of loss payable:
\$59,850 + \$80,000 = \$139,850

EXAMPLE #2

(This example, too, assumes there is no Coinsurance penalty.)

The Deductible and Limits of Insurance are the same as those in Example #1.

Loss to Building #1: (Exceeds Limit of Insurance plus Deductible)	\$ 70,000
Loss to Building #2: (Exceeds Limit of Insurance plus Deductible)	\$ 90,000
Loss Payable – Building #1: (Limit of Insurance)	\$ 60,000
Loss Payable – Building #2: (Limit of Insurance)	\$ 80,000
Total amount of loss payable:	\$ 140,000

E. Cancellation Common Policy Condition

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least 5 days before the effective date of cancellation.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is canceled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

F. Other Common Policy Conditions

1. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

2. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

3. Inspections And Surveys

- a. We have the right to:
 - (1) Make inspections and surveys at any time;
 - (2) Give you reports on the conditions we find; and
 - (3) Recommend changes.
- b. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - (1) Are safe or healthful; or
 - (2) Comply with laws, regulations, codes or standards.
- c. Paragraphs **a.** and **b.** of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
- d. 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.

4. Premiums

The first Named Insured shown in the Declarations:

- a. Is responsible for the payment of all premiums; and
- b. Will be the payee for any return premiums we pay.

5. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

G. Loss Conditions

1. Abandonment

There can be no abandonment of any property to us.

2. Appraisal

If we and you disagree on the values of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

3. Duties In The Event Of Loss Or Damage

- a. You must see that the following are done in the event of loss or damage to Covered Property:
 - (1) Notify the police if a law may have been broken.
 - (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
 - (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.

(4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.

(5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.

(6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.

(7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.

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

- b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

4. Insurance Under Two Or More Coverages

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

5. Loss Payment

- a. In the event of loss or damage covered by this policy, at our option, we will either:
 - (1) Pay the value of lost or damaged property;
 - (2) Pay the cost of repairing or replacing the lost or damaged property, subject to **b.** below;
 - (3) Take all or any part of the property at an agreed or appraised value; or
 - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to **b.** below.

We will determine the value of lost or damaged property, or the cost of its repair or replacement, in accordance with the applicable terms of the Valuation Condition in this policy or any applicable provision which amends or supersedes the Valuation Condition.

- b. The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.
- c. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- d. We will not pay you more than your financial interest in the Covered Property.
- e. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, if you have complied with all of the terms of this Coverage Part and:
 - (1) We have reached agreement with you on the amount of loss; or
 - (2) An appraisal award has been made.

- h. A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. In settling covered losses involving a party wall, we will pay a proportion of the loss to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace that building, we will pay you the full value of the loss to the party wall, subject to all applicable policy provisions including Limits of Insurance, the Valuation and Coinsurance Conditions and all other provisions of this Loss Payment Condition. Our payment under the provisions of this paragraph does not alter any right of subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of the Transfer Of Rights Of Recovery Against Others To Us Condition in this policy.

6. Other Insurance

- a. You may have other insurance subject to the same plan, terms, conditions and provisions as the insurance under this policy. If you do, we will pay our share of the covered loss or damage. Our share is the proportion that the applicable Limit of Insurance under this policy bears to the Limits of Insurance of all covering on the same basis.
- b. If there is other insurance covering the same loss or damage, other than that described in **a.** above, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance.

7. Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, the property will be returned to you. You must then return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limit of Insurance.

8. Vacancy

a. Description Of Terms

(1) As used in this Vacancy Condition, the term building has the meanings set forth in (1)(a) and (1)(b) below:

(a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant.

(b) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is "vacant" or "unoccupied" when 70% or more of its total square footage is "vacant" or "unoccupied".

(2) Buildings under construction or renovation are not considered "vacant" or "unoccupied".

b. Vacancy Provisions

We will not pay for any loss or damage if the building where loss or damage occurs has been "vacant" or "unoccupied" for more than:

(1) 30 consecutive days before that loss or damage if caused by Vandalism (if it is a Covered Cause of Loss); or

(2) 60 consecutive days before that loss or damage if caused by any other Covered Cause of Loss;

whether or not such vacancy or unoccupancy begins before the inception of this policy.

But we will pay if the building is "unoccupied" due to circumstances that are usual or incidental to the described occupancy.

This condition does not apply if the Vacancy Permit Endorsement is attached.

9. Valuation

We will determine the value of Covered Property in the event of loss or damage as follows:

a. At actual cash value as of the time of loss or damage, except as provided in b., c. and d. below.

b. "Stock" you have sold but not delivered at the selling price less discounts and expenses you otherwise would have had.

c. Glass at the cost of replacement with safety-glazing material if required by law.

d. Tenants' Improvements and Betterments at:

(1) Actual cash value of the lost or damaged property if you make repairs promptly.

(2) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:

(a) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and

(b) Divide the amount determined in (a) above by the number of days from the installation of improvements to the expiration of the lease.

If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.

(3) Nothing if others pay for repairs or replacement.

H. Additional Conditions

1. Coinsurance

If a Coinsurance percentage is shown in the Declarations, the following condition applies.

We will not pay the full amount of any loss if the value of Covered Property at the time of loss times the Coinsurance percentage shown for it in the Declarations is greater than the Limit of Insurance for the property.

Instead, we will determine the most we will pay using the following steps:

(1) Multiply the value of Covered Property at the time of loss by the Coinsurance percentage;

(2) Divide the Limit of Insurance of the property by the figure determined in Step (1);

(3) Multiply the total amount of loss, before the application of any deductible, by the figure determined in Step (2); and

(4) Subtract the deductible from the figure determined in Step (3).

We will pay the amount determined in Step (4) or the limit of insurance, whichever is less. For the remainder, you will either have to rely on other insurance or absorb the loss yourself.

EXAMPLE #1 (UNDERINSURANCE)

When: The value of the property is: \$ 250,000
The Coinsurance percentage for it is: 80%
The Limit of Insurance for it is: \$ 100,000
The Deductible is: \$ 250
The amount of loss is: \$ 40,000

Step (1): $\$250,000 \times 80\% = \$200,000$
(the minimum amount of insurance to meet your Coinsurance requirements)

Step (2): $\$100,000 \div \$200,000 = .50$

Step (3): $\$40,000 \times .50 = \$20,000$

Step (4): $\$20,000 - \$250 = \$19,750$

We will pay no more than \$19,750. The remaining \$20,250 is not covered.

EXAMPLE #2 (ADEQUATE INSURANCE)

When: The value of the property is: \$ 250,000
The Coinsurance percentage for it is: 80%
The Limit of Insurance for it is: \$ 200,000
The Deductible is: \$ 250
The amount of loss is: \$ 40,000

The minimum amount of insurance to meet your Coinsurance requirement is \$200,000 ($\$250,000 \times 80\%$). Therefore, the Limit of Insurance in this example is adequate and no penalty applies. We will pay no more than \$39,750 (\$40,000 amount of loss minus the deductible of \$250).

2. Concealment, Misrepresentation Or Fraud

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

- a. This policy;
- b. The Covered Property;
- c. Your interest in the Covered Property; or
- d. A claim under this policy.

3. Control Of Property

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

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

4. Knowledge Or Control

We will not pay for loss or damage while the chance of loss or damage is increased by any means within your knowledge or control.

5. Legal Action Against Us

No one may bring a legal action against us under this policy unless:

- a. There has been full compliance with all of the terms of this policy; and
- b. The action is brought within two years after the date on which the direct physical loss or damage occurred.

6. 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 broadened coverage will immediately apply to this policy.

7. Mortgageholders

- a. The term mortgageholder includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:
 - (1) Pays any premium due under this policy at our request if you have failed to do so;
 - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
 - (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this policy will then apply directly to the mortgageholder.

- e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this policy:

- (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
- (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the mortgageholder at least 10 days before the effective date of cancellation.
- g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

8. No Benefit To Bailee

No person or organization, other than you, having custody of Covered Property will benefit from this insurance.

9. Policy Period, Coverage Territory

Under this policy:

- a. We cover loss or damage commencing:
 - (1) During the policy period shown in the Declarations; and
 - (2) Within the coverage territory.
- b. The coverage territory is the "state" in which the premises described in the Declarations is located.

10. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

- a. Prior to a loss to your Covered Property.
- b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:
 - (1) Someone insured by this insurance;
 - (2) A business firm:
 - (a) Owned or controlled by you; or
 - (b) That owns or controls you; or
 - (3) Your tenant.

This will not restrict your insurance.

I. Definitions

- 1. "Fungus" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
- 2. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- 3. "State" includes the District of Columbia and Puerto Rico.
- 4. "Stock" means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.
- 5. "Unoccupied" means containing contents pertaining to the occupancy of the building while operations or other customary activities are suspended.
- 6. "Vacant" means containing no contents pertaining to operations or activities customary to occupancy of the building.

APPENDIX E

Commercial General Liability Coverage Form

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

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

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERAGES

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
 - (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
 - (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
 - (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - (i) Any insured; or
 - (ii) Any person or organization for whom you may be legally responsible; or
 - (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
 - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".
 - (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of:

- (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or
- (b) the operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

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

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;

- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a side-track agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and

- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages **A** and **B**.

- b.** This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights.

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of websites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **14.a.**, **b.** and **c.** of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

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

COVERAGE C MEDICAL PAYMENTS

1. Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations; provided that:
 - (1) The accident takes place in the "coverage territory" and during the policy period;
 - (2) The expenses are incurred and reported to us within one year of the date of the accident; and
 - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- e. All costs taxed against the insured in the "suit".
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b. This insurance applies to such liability assumed by the insured;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
 - d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
 - e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
 - f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";

- (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
- (2) Provides us with written authorization to:
 - (a) Obtain records and other information related to the "suit"; and
 - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b.(2)** of Section I – Coverage **A** – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph **f.** above, are no longer met.

SECTION II – WHO IS AN INSURED

- 1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
2. Each of the following is also an insured:
- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
 - (1) "Bodily injury" or "personal and advertising injury":
 - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
 - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services.
 - (2) "Property damage" to property:
 - (a) Owned, occupied or used by,
 - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
 - b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
 - c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
 - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
 - 3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
 - a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
 - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
- No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – LIMITS OF INSURANCE

- 1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".

2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage **C**;
 - b. Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
 - c. Damages under Coverage **B**.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage **A**; and
 - b. Medical expenses under Coverage **C** because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against any insured, you must:
 - (1) Immediately record the specifics of the claim or "suit" and the date received; and
 - (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. You and any other involved insured must:
 - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (b) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (c) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability.
- (2) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
 - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or

- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in a. above;
 - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communicationprovided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in a. above or in a settlement we agree to.
5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;if such property can be restored to use by:
 - a. The repair, replacement, adjustment or removal of "your product" or "your work"; or

- b. Your fulfilling the terms of the contract or agreement.
9. "Insured contract" means:
- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
 - b. A sidetrack agreement;
 - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - e. An elevator maintenance agreement;
 - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- Paragraph f. does not include that part of any contract or agreement:
- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
 - (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.
10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
11. "Loading or unloading" means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
 - b. While it is in or on an aircraft, watercraft or "auto"; or
 - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;
- but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
 - b. Vehicles maintained for use solely on or next to premises you own or rent;
 - c. Vehicles that travel on crawler treads;
 - d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
 - e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
 - f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.
- However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
 - a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
 - d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
 - f. The use of another's advertising idea in your "advertisement"; or
 - g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".
15. "Pollutants" mean 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.

16. "Products-completed operations hazard":

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

- b.** Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

- 18.** "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
 - a.** An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 - b.** Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
- 19.** "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- 20.** "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

- a.** Means:
 - (1)** Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a)** You;
 - (b)** Others trading under your name; or
 - (c)** A person or organization whose business or assets you have acquired; and
 - (2)** Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
- b.** Includes
 - (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
 - (2)** The providing of or failure to provide warnings or instructions.
- c.** Does not include vending machines or other property rented to or located for the use of others but not sold.

22. "Your work":

- a.** Means:
 - (1)** Work or operations performed by you or on your behalf; and
 - (2)** Materials, parts or equipment furnished in connection with such work or operations.
- b.** Includes
 - (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and
 - (2)** The providing of or failure to provide warnings or instructions.