Tokio Marine Specialty Insurance Company

COMMERCIAL FLOOD INSURANCE DECLARATIONS

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

COMMERCIAL PRIMARY FLOOD INSURANCE
Customer No. 695320001

Policy Number. PFPC20000164-01

1. Name & Mailing Address of Policyholder:
Sacramento Greens LLC
2417 Mariner Square Loop Suite 247
Alameda, CA 94501

Property Address
901 N Florida Ave
Alamogordo, NM 88310

Additional Named Insureds

Mortgagee(s), Loss Payee(s), Addt'l. Interest(s)
1st Mortgagee
Stanford Credit Union
1860 Embarcadero Road
Palo Alto, CA 94303

2. Policy Effective **From** 06/12/2025 **To** 06/12/2026 Both days at 12:01 a.m. standard time

3. Coverages, Limits of Insurance and Deductibles:
The insurer's liability shall attach only to each and every loss in excess of the deductibles stated below.

Coverage	Limit of Insurance	Deductible	Premium
Building	$1,093,580	$5,000	$5,249.00
Contents	$0.00		$0.00
Business Income	$0.00		$0.00
		Base Premium:	$5,249.00
		Policy Fee:	$50.00
		Surplus Lines Tax:	$159.13
FLOOD ZONE: AH		Total Amount:	$5,458.13

4. Special Conditions: This insurance applies to the property described above and for which a coverage amount and premium are stated, and is subject to the following forms: TMSIC-JACKET 1, PIC-CPF-1, PIC-FLN-003-CF, PIC-FLN-004, PIC-FLN-005, PIC-FLN-006, PIC-FLN-007, PIC-FLN-008, PIC-FLN-009, PIC-FLN-010, PIC-FLN-012, LMA5585.

5. Service of Suit may be made upon: Tokio Marine Specialty Insurance Company, Attn: Counsel, Legal Department, One Bala Plaza, Suite 100, Bala Cynwyd PA 19004

6. In the event of a claim, please notify the following:
Precise Adjustments - (800) 627-7601 | 17 Cowboys Way Ste 450 Frisco, TX 75034 | FloodClaims@PreciseAdjustments.com
For all other inquiries please contact your producer.

Issued Date: 05/29/2025

Producer:
Berger Briggs Insurance & Risk Solutions Inc,
3000319410
4333 Pan American Fwy NE
Albuquerque, NM 87107

Surplus Lines Broker:
Tokio Marine Highland Insurance Services, Inc., 1800004276
150 N Wacker Dr Suite 2020
Chicago, IL 60606

Tokio Marine Highland Insurance Services, Inc.

Countersignature: _____ By: _____

Authorized Representative

DISCLAIMER:
THIS POLICY PROVIDES SURPLUS LINES INSURANCE BY AN INSURER NOT OTHERWISE AUTHORIZED TO TRANSACT BUSINESS IN NEW MEXICO. THIS POLICY IS NOT SUBJECT TO SUPERVISION, REVIEW, OR APPROVAL BY THE SUPERINTENDENT OF INSURANCE. THE INSURANCE SO PROVIDED IS NOT

WITHIN THE PROTECTION OF ANY GUARANTY FUND LAW OF NEW MEXICO DESIGNED TO PROTECT THE PUBLIC IN THE EVENT OF THE INSURER'S INSOLVENCY.



TOKIO MARINE
SPECIALTY

One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004
610.617.7900 | Fax 610.617.7940

Tokio Marine Specialty Insurance Company

Commercial Lines Policy

THIS POLICY CONSISTS OF:

– DECLARATIONS

– COMMON POLICY CONDITIONS

– ONE OR MORE COVERAGE PARTS. A COVERAGE PART CONSISTS OF:

- ONE OR MORE COVERAGE FORMS
- APPLICABLE FORMS AND ENDORSEMENTS

IN WITNESS WHEREOF, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by our authorized representative.



President & CEO



Secretary

PRIVATE FLOOD INSURANCE PROGRAM

PRIMARY FLOOD INSURANCE POLICY -- COMMERCIAL PROPERTY FORM

PLEASE READ THIS POLICY CAREFULLY.

THE FLOOD INSURANCE PROVIDED IS SUBJECT TO LIMITATIONS, RESTRICTIONS, AND EXCLUSIONS.

I. AGREEMENT

A. INSURING AGREEMENT

We will pay you for **direct physical loss by or from flood** to your insured property if you:

1. Have paid the correct premium;

2. Have complied with all terms and conditions of this **policy**; and

3. Have furnished accurate information and statements.

We have the right to review the information you give us at any time and to revise your **policy** based on our review.

B. COMPLIANCE GUARANTEE

1. This **policy** meets the definition of private flood insurance contained in 42 U.S.C. 4012a(b)(7) and the corresponding regulation.

2. This **policy** meets the definition of private flood insurance contained in 24 CFR 203.16a(e) for FHA-insured mortgages.

3. To the extent that any provision within this **policy** applicable to the **flood** coverage provided herein fails to meet the definition of private flood insurance contained therein, such provision herein is hereby amended to conform to the minimum requirements of such definition.

4. All cancellation and nonrenewal notices will be sent to the named insured and to each mortgagee listed on the Policy at least forty-five (45) days prior to the effective date of each such termination.

5. As an alternative to **flood** coverage contained in this **policy**, flood insurance is available under the **National Flood Insurance Program (NFIP)** through an insurance agent who will obtain a policy either directly through the **NFIP** or through an insurance company that participates in the **NFIP**.

II. DEFINITIONS

A. In this **policy**, "you" and "your" refer to the insured(s) shown on the **Declarations Page** of this **policy**. "Insured(s)" includes: Any mortgagee and loss payee named in the application and **Declarations Page**, as well as any other mortgagee or loss payee determined to exist at the time of loss in the order of precedence. "We," "us," and "our" refer to the insurer.

Some definitions are complex because they are provided as they appear in the law or regulations, or result from court cases. The precise definitions are intended to protect you.

Flood, as used in this flood insurance **policy**, means:

1. A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties (one of which is your property) from:

- **a.** Overflow of inland or tidal waters;
- **b.** Unusual and rapid accumulation or runoff of surface waters from any source;
- **c.** **Mudflow**.

2. Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or

© 2023 Tokio Marine Highland Insurance Services, Inc.

undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a **flood** as defined in **A.1.a**. above.

B. The following are the other key definitions we use in this **policy**:

1. Act. The National Flood Insurance Act of 1968, and any amendments to it, (42 U.S.C. 4001, et seq.).

2. Actual Cash Value. The cost to repair or replace an insured item of property at the time of loss, less the value of its physical depreciation.

3. Additions and Extensions. The additions, alterations, fixtures, installations, or other items of real property that pertain to the interior of your **unit**, **business**, or **building** at the **described location**.

4. Association. The entity made up of the **unit** owners or a cooperative of **business** owners or such other joint, common or cooperative ownership responsible for the maintenance and operation of:

a. Common elements owned in undivided shares by **unit** owners or **business** owners; and

b. Other real property in which the **unit** owners or **business** owners have use rights;

where membership in the entity is a required condition of **unit** ownership or **business** ownership.

5. Base Flood. A **flood** having a one percent chance of being equaled or exceeded in any given year.

6. Basement. Any area of the **building**, including any sunken room or sunken portion of a room, having its floor below ground level (subgrade) on all sides.

7. Building. A structure, with two or more outside rigid walls and a fully secured roof, affixed to a permanent site used for your **business** activities; **Building** does not mean a gas or liquid storage tank or a recreational vehicle, park trailer, or other similar vehicle.

8. Business. Any employment, trade, occupation, profession, commercial enterprise, or farm operation including the raising or care of animals.

9. Cancellation. The ending of the insurance coverage provided by this **policy** before the expiration date.

10. Condominium. That form of ownership of real property in which each owner has an undivided interest in common elements.

11. Declarations Page. A computer-generated summary of information you provided in the application for insurance. The **Declarations Page** also describes the term of the **policy**, limits of coverage, and displays the premium and our name. The **Declarations Page** is a part of this flood insurance **policy.**

12. Described Location. The premises where the insured commercial **building**(s) or **business** contents are found. The **described location** is shown on the **Declarations Page.**

13. Direct Physical Loss By or From Flood. Loss or damage to insured property, directly caused by a **flood**. There must be evidence of physical changes to the insured property.

14. Elevated Building. A **building** that has no **basement** and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

15. Emergency Program. The initial phase of a community's participation in the **National Flood Insurance Program.** During this phase, only limited amounts of insurance are available under the **Act**.

16. Mudflow. A river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water. Other earth movements, such as landslide, slope failure, or a saturated soil mass moving by liquidity down a slope, are not **mudflows**.

17. National Flood Insurance Program (NFIP). The program of flood insurance coverage and floodplain management administered under the **Act** and applicable Federal regulations in Title 44 of the Code of Federal Regulations, Sub. B.

18. Policy. The entire written contract between you and us. It includes:

a. This printed form;

b. The application and **Declarations Page**;

c. Any endorsement(s) that may be issued; and

© 2023 Tokio Marine Highland Insurance Services, Inc.

d. Any renewal certificate indicating that coverage has been instituted for a new **policy** and new **policy** term.

Unless the application and the **Declarations Page** specifically apply this **policy** to multiple **buildings**, only one **building,** which you specifically described in the application, may be insured under this **policy**.

19. Policy Fee. A flat fee (when charged) that you must pay on each new or renewal **policy** to defray certain administrative expenses incurred in carrying out this Private Flood Insurance Program.

20. Pollutants. Substances that include, but are not limited to, any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. "Waste" includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.

21. Post-FIRM Building. A **building** for which construction or substantial improvement occurred after December 31, 1974, or on or after the effective date of an initial Flood Insurance Rate Map (FIRM), whichever is later.

22. Residential Condominium Building. A **building** owned and administered as a **condominium,** containing one or more residential dwellings and in which at least 75 percent of the floor area is residential.

23. Special Flood Hazard Area. An area having special **flood,** or **mudflow**, and/or **flood**-related erosion hazards, and shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map as Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE, or V.

24. Stock. Merchandise held in storage or for sale, raw materials, and in-process or finished goods, including supplies used in their packing or shipping. **Stock** does not include any property not covered under Section **IV** Property Not Covered, except the following:

a. Parts and equipment for self-propelled vehicles;

b. Furnishings and equipment for watercraft;

c. Spas and hot-tubs, including their equipment; and

d. Swimming pool equipment.

25. Unit. An occupancy you own, lease or rent within a **condominium building**.

26. Vacant. A **building** that has no occupants or was not used in the normal course of your **business** for more than thirty (30) consecutive days immediately before a covered loss. A **building** currently under construction is deemed occupied unless construction was halted for more than ninety (90) consecutive days. A **condominium building** or an or apartment **building** is deemed **vacant** if more than 33% of all **units** or apartments had no occupants or tenants for more than thirty (30) consecutive days immediately before a covered loss.

27. Valued Policy. A **policy** in which the insured and the insurer agree on the value of the property insured, that value being payable in the event of a total loss. This Commercial Flood Insurance Policy is not a **valued policy.**

III. PROPERTY COVERED

A. COVERAGE A - BUILDING

We insure against **direct physical loss by or from flood** to:

1. The **building** described on the **Declarations Page** at the **described location**. If the **building** is a nonresidential **condominium building** and the named insured is the **Association**, Coverage **A** includes all **units** within the **building** and **additions and extensions** within the **units**, provided the **units** are owned in common by all **unit** owners.

2. Additions and Extensions attached to and in contact with the **building** by means of a rigid exterior wall, a solid load-bearing interior wall, a stairway, an elevated walkway, or a roof. At your option, **additions and extensions** connected by any of these methods may be separately insured.

3. The following fixtures, machinery, and equipment, which are covered under Coverage **A** only:

a. Awnings and canopies;

b. Blinds;

© 2023 Tokio Marine Highland Insurance Services, Inc.

c. Carpet permanently installed over unfinished flooring;

d. Central air conditioners;

e. Elevator equipment;

f. Fire extinguishing apparatus;

g. Fire sprinkler systems;

h. Walk-in freezers;

i. Furnaces;

j. Light fixtures;

k. Outdoor antennas and aerials attached to **buildings**;

l. Permanently installed cupboards, bookcases, paneling, and wallpaper;

m. Pumps and machinery for operating pumps;

n. Ventilating equipment;

o. Wall mirrors, permanently installed; and

p. In the **units** within the **building**, installed:

(1) Built-in dishwashers;
(2) Built-in microwave ovens;
(3) Garbage disposal units;
(4) Hot water heaters, including solar water heaters;
(5) Kitchen cabinets;
(6) Plumbing fixtures;
(7) Radiators;
(8) Ranges;
(9) Refrigerators; and
(10) Stoves.

4. Materials and supplies to be used for construction, alteration, or repair of the insured **building** while the materials and supplies are stored in a fully enclosed **building** at the **described location** or on an adjacent property.

5. A **building** under construction, alteration, or repair at the **described location**.

a. If the structure is not yet walled or roofed as described in the definition for **building** (see **II.B. 7.**), then coverage applies:

(1) Only while such work is in progress; or
(2) If such work is halted, only for a period of up to ninety (90) continuous days thereafter.

b. However, coverage does not apply until the **building** is walled and roofed if the lowest floor, including the **basement** floor, of a non-**elevated building** or the lowest elevated floor of an **elevated building** is:

(1) Below the **base flood** elevation in Zones AH, AE, A1-A30, AR, AR/AE, AR/AH, AR/A1-A30, AR/A, AR/AO; or
(2) Below the **base flood** elevation adjusted to include the effect of wave action in Zones VE or V1-V30.

The lowest floor levels are based on the bottom of the lowest horizontal structural member of the floor in Zones VE or V1-V30 and the top of the floor in Zones AH, AE, A1-A30, AR, AR/AE, AR/AH, AR/A1-A30, AR/A, AR/AO.

6. Items of property in a **building** enclosure below the lowest elevated floor of an **elevated post-FIRM building** located in Zones A1-A30, AE, AH, AR, AR/A, AR/AE, AR/AH, AR/A1-A30, V1-V30, or VE, or in a **basement,** regardless of the zone. Coverage is limited to the following:

a. Any of the following items, if installed in their functioning locations and, if necessary for operation, connected to a power source:

(1) Central air conditioners;

© 2023 Tokio Marine Highland Insurance Services, Inc.

(2) Cisterns and the water in them;
(3) Drywall for walls and ceilings in a **basement** and the cost of labor to nail it, unfinished and unfloated and not taped, to the framing;
(4) Electrical junction and circuit breaker boxes;
(5) Electrical outlets and switches;
(6) Elevators, dumbwaiters, and related equipment, except for related equipment installed below the **base flood** elevation after September 30, 1987;
(7) Fuel tanks and the fuel in them;
(8) Furnaces and hot water heaters;
(9) Heat pumps;
(10) Nonflammable insulation in a **basement**;
(11) Pumps and tanks used in solar energy systems;
(12) Stairways and staircases attached to the **building**, not separated from it by elevated walkways;
(13) Sump pumps;
(14) Water softeners and the chemicals in them, water filters, and faucets installed as an integral part of the plumbing system;
(15) Well water tanks and pumps;
(16) Required utility connections for any item in this list; and
(17) Footings, foundations, posts, pilings, piers, or other foundation walls and anchorage systems required to support a **building.**

b. Clean-up.

B. COVERAGE B - CONTENTS

1. If you have purchased **business** contents coverage, we insure, subject to **B.2** through **B.9** below, against **direct physical loss by or from flood** to **business** contents inside a fully enclosed insured **building**. We also insure such **business** contents for forty-five (45) days while stored at a temporary location, as set forth in **III.C.2.b.** Property Removed to Safety.

2. When this **policy** covers **business** contents, it will insure your:

a. Furniture and fixtures;

b. Machinery and equipment;

c. **Stock**; and

d. Other contents owned by you and used in your **business**, subject to **IV. Property Not Covered**.

3. Coverage for **business** contents includes the following property, subject to **B.1** above, which is covered under Coverage **B** only:

a. Air conditioning units installed in the **building**;

b. Carpet, not permanently installed, over unfinished flooring;

c. Carpets over finished flooring;

d. Clothes washers and dryers;

e. "Cook-out" grills;

f. Food freezers, other than walk-in, and food in any freezer;

g. Outdoor equipment and furniture stored inside the insured **building**;

h. Ovens and the like; and

i. Portable microwave ovens and portable dishwashers.

4. Coverage for items of property in a **building** enclosure below the lowest elevated floor of an **elevated post-FIRM building** located in Zones A1- A30, AE, AH, AR, AR/A, AR/AE, AR/AH, AR/A1-A30, V1-V30, or VE, or in a **basement,** regardless of the zone, is limited to the following items, if installed in their functioning locations and, if necessary for operation, connected to a power source:

a. Air conditioning units, portable or window type;

© 2023 Tokio Marine Highland Insurance Services, Inc.

b. Clothes washers and dryers; and

c. Food freezers, other than walk-in, and food in any freezer.

5. Special Limits. We will pay no more than $2,500 for any loss to one or more of the following kinds of contents:

a. Artwork, photographs, collectibles, or memorabilia, including but not limited to, porcelain or other figures, and sports cards;

b. Rare books or autographed items;

c. Jewelry, watches, precious and semiprecious stones, or articles of gold, silver, or platinum;

d. Furs or any article containing fur which represents its principal value.

These Special Limits do not apply to **business** contents that are your **stock.**

6. We will pay only for the functional value of antiques, unless such antiques are **business** contents that are your **stock**.

7. If you are a tenant, you may apply up to 10 percent of the Coverage **B** limit to **additions and extensions**:

a. Made a part of the **building** you occupy; and

b. You acquired or made at your expense, even though you cannot legally remove them.

This coverage does not increase the amount of insurance that applies to insured **business** contents.

8. If you are a **unit** owner, you may apply up to 10 percent of the Coverage **B** limit to cover loss to interior:

a. Walls;

b. Floors; and

c. Ceilings;

that are not covered under a **policy** issued to the **association** insuring the **condominium building**.

This coverage does not increase the amount of insurance that applies to **business** contents.

9. If you are a tenant, insured **business** contents must be inside a fully enclosed **building**.

COVERAGE C - OTHER COVERAGES

1. Debris Removal

a. We will pay the expense to remove non-owned debris that is on or in insured property and debris of insured property anywhere.

b. If you or members of your household perform the removal work, the value of your work will be based on the Federal minimum wage.

c. We will pay no more than the applicable limit of liability or $500,000, whichever is less.

d. This coverage does not increase the Coverage **A** or Coverage **B** limit of liability.

2. Loss Avoidance Measures

a. Sandbags, Supplies, and Labor

(1) We will pay up to $1,000 for the costs you incur to protect the insured **building** from a **flood** or imminent danger of **flood**, for the following:

(a) Your reasonable expenses to buy:

(i) Sandbags, including sand to fill them;

© 2023 Tokio Marine Highland Insurance Services, Inc.

(ii) Fill for temporary levees;
(iii) Pumps; and
(iv) Plastic sheeting and lumber used in connection with these items; and

(b) The value of work, at the Federal minimum wage, that you perform.

(2) This coverage for Sandbags, Supplies, and Labor only applies if damage to insured property by or from **flood** is imminent and the threat of **flood** damage is apparent enough to lead a person of common prudence to anticipate **flood** damage. One of the following must also occur:

(a) A general and temporary condition of flooding in the area near the **described location** must occur, even if the **flood** does not reach the insured **building**; or

(b) A legally authorized official must issue an evacuation order or other civil order for the community in which the insured **building** is located calling for measures to preserve life and property from the peril of **flood**.

This coverage does not increase the Coverage **A** or Coverage **B** limit of liability.

b. Property Removed to Safety

(1) We will pay up to $1,000 for the reasonable expenses you incur to move insured property to a place other than the **described location** that contains the property in order to protect it from **flood** or the imminent danger of **flood**. Reasonable expenses include the value of work, at the Federal minimum wage, that you or your employees perform.

(2) If you move insured property to a location other than the **described location** that contains the property, in order to protect it from **flood** or the imminent danger of **flood**, we will cover such property while at that location for a period of forty-five (45) consecutive days from the date you begin to move it there. The **business** contents that are moved must be placed in a fully enclosed **building** or otherwise reasonably protected from the elements and outside of the **special flood hazard area.**

This coverage does not increase the Coverage **A** or Coverage **B** limit of liability.

3. Pollution Damage

We will pay for damage caused by **pollutants** to covered property if the discharge, seepage, migration, release, or escape of the **pollutants** is caused by or results from **flood**. The most we will pay under this coverage is $10,000. This coverage does not increase the Coverage **A** or Coverage **B** limits of liability. Any payment under this provision when combined with all other payments for the same loss cannot exceed the replacement cost or **actual cash value**, as appropriate, of the covered property. This coverage does not include the testing for or the monitoring of **pollutants** unless required by law or ordinance.

4. Association Loss Assessments

a. If this **policy** insures a **unit**, we will pay your share of loss assessments charged against you by the **Association** in accordance with the **Association's** articles of association, declarations and your deed.

The assessment must be made as a result of **direct physical loss by or from flood** during the **policy** term, to the **building's** common elements.

b. We will not pay any loss assessment charged against you:

(1) And the **Association** by any governmental body;

(2) That results from a deductible under the insurance purchased by the **Association** insuring common elements;

(3) That results from a loss to contents, including contents of an **Association building**;

(4) That results from a loss sustained by the **Association** that was not reimbursed under a flood insurance **policy** written in the name of the **Association** under the **Act** because the **building** was not, at the time of loss, insured for an amount equal to the lesser of:

(a) 80% or more of its full replacement cost; or

(b) The maximum amount of insurance permitted under the **Act.**

c. We will pay no more than $250,000 or the **Coverage A** limit of liability, whichever is less.

© 2023 Tokio Marine Highland Insurance Services, Inc.

d. Loss assessment coverage does not increase the Coverage **A** limit of liability.

D. COVERAGE D - INCREASED COST OF COMPLIANCE

1. General

This **policy** pays you to comply with a State or local floodplain management law or ordinance affecting repair or reconstruction of a structure suffering **flood** damage. Compliance activities eligible for payment are: elevation, floodproofing, relocation, or demolition (or any combination of these activities) of your structure**.**

2. Limit of Liability

We will pay you up to $30,000 under this Coverage **D**, which only applies to **policies** with a Coverage **A** limit of liability listed on the **Declarations Page**. Our payment of claims under Coverage **D** is in addition to the amount of coverage you selected and which appears on the **Declarations Page** for Coverage **A.** However, the maximum you can collect under this **policy** for both Coverage **A** and Coverage **D** cannot exceed the maximum permitted under the **Act.** We do not charge a separate deductible for a claim under Coverage **D**.

3. Eligibility

a. A structure covered under Coverage **A** sustaining a loss caused by a **flood** as defined by this **policy** must:

(1) Be a "repetitive loss structure." A repetitive loss structure is one that meets the following conditions:

(a) The structure has suffered **flood** damage on two occasions during a 10-year period which ends on the date of the second loss;
(b) The cost to repair the **flood** damage, on average, equaled or exceeded 25% of the market value of the structure at the time of each **flood** loss; or
(c) The State or community must have a cumulative, substantial damage provision or repetitive loss provision in its floodplain management law or ordinance being enforced against the structure; or

(2) Be a structure that has had **flood** damage in which the cost to repair equals or exceeds 50% of the market value of the structure at the time of the **flood**. The State or community must have a substantial damage provision in its floodplain management law or ordinance being enforced against the structure.

b. This Coverage **D** pays you to comply with State or local floodplain management laws or ordinances that meet the minimum standards of the **NFIP** found in the Code of Federal Regulations at 44 CFR 60.3. We pay for compliance activities that exceed those standards under these conditions:

(1) Coverage **D** Eligibility provisions listed **a.**, above.
(2) Elevation or floodproofing in any risk zone to preliminary or advisory **base flood** elevations provided by FEMA which the State or local government has adopted and is enforcing for **flood**-damaged structures in such areas. This includes compliance activities in B, C, X, or D zones which are being changed to zones with **base flood** elevations. This also includes compliance activities in zones where **base flood** elevations are being increased, and a **flood**-damaged structure must comply with the higher advisory **base flood** elevation. Increased Cost of Compliance coverage does not apply to situations in B, C, X, or D zones where the community has derived its own elevations and is enforcing elevation or floodproofing requirements for **flood**-damaged structures to elevations derived solely by the community.

(3) Elevation or floodproofing above the **base flood** elevation to meet State or local "freeboard" requirements, i.e., that a structure must be elevated above the **base flood** elevation.

c. This coverage will also pay for the incremental cost, after demolition or relocation, of elevating or floodproofing a structure during its rebuilding at the same or another site to meet State or local floodplain management laws or ordinances, subject to Exclusion **D.5.f.** below.

d. This coverage will also pay to bring a **flood**-damaged structure into compliance with State or local floodplain management laws or ordinances even if the structure had received a variance before the present loss from the applicable floodplain management requirements.

4. Conditions

a. When a structure covered under Coverage **A** - Building Property sustains a loss caused by a **flood**, our payment for the loss under this Coverage **D** will be for the increased cost to elevate, floodproof, relocate, or demolish (or any combination of these activities) caused by the enforcement of current State or local floodplain management ordinances or laws. Our payment for eligible demolition activities will be for the cost to demolish and clear the site of the **building** debris or a

© 2023 Tokio Marine Highland Insurance Services, Inc.

portion thereof caused by the enforcement of current State or local floodplain management ordinances or laws. Eligible activities for the cost of clearing the site will include those necessary to discontinue utility service to the site and ensure proper abandonment of on-site utilities.

b. When the **building** is repaired or rebuilt, it must be intended for the same occupancy as the present **building** unless otherwise required by current floodplain management ordinances or laws.

5. Exclusions

Under this Coverage **D** Increased Cost of Compliance we will not pay for:

a. The costs to make property not covered under this **policy** comply with any floodplain management law or ordinance.

b. The cost associated with enforcement of any ordinance or law that requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **pollutants**.

c. The loss in value to any insured **building** or other structure due to the requirements of any ordinance or law.

d. The loss in residual value of the undamaged portion of a **building** demolished as a consequence of enforcement of any State or local floodplain management law or ordinance.

e. Any Increased Cost of Compliance under this Coverage **D** not completed within two (2) years of the **flood** loss.

f. Loss due to any ordinance or law that you were required to comply with before the current loss.

6. Other Provisions

All other exclusions, conditions and provisions of this **policy** apply.

E. COVERAGE E - BUSINESS INCOME AND EXTRA EXPENSE

1. General

If you have purchased Business Income and Extra Expense coverage, and a separate Limit is stated on the **Declarations Page,** then this **policy** provides coverage when a **flood** causes a disruption to your **business** operations, subject to the terms and conditions of **policy** and this Coverage **E**.

2. Coverage

a. We will pay for the actual loss of "Business Income" you sustain due to the necessary "suspension" of your "operations" during the "period of restoration" caused by **direct physical loss by or from flood** to the insured property at the **described location.**

b. We will also pay any "Extra Expense" you incur:

(1) To continue your normal "operations" at the **described location**;

(2) To continue your normal "operations" at a replacement or temporary location, including:

(a) Relocation expenses; and
(b) Costs to equip or operate the replacement or temporary location; or

(3) To minimize the "suspension" of your normal "operations" if you cannot continue them.

(4) "Extra Expense" coverage does not increase the limit of liability for Coverage **E** listed in the Declarations page.

3. Limit of Insurance

The most we will pay for loss under this Coverage **E** is the limit of liability listed on the **Declarations Page.**

© 2023 Tokio Marine Highland Insurance Services, Inc.

4. Additional Definitio ns

The following Additional Definitions apply to this Coverage **E**:

a. "Business Income" means the:

(1) Net Income (Net Profit or Loss before income taxes), including "rental income", that would have been earned or incurred; and

(2) Continuing normal operating expenses incurred, including payroll.

b. "Extra Expense" means the reasonable and necessary expenses you incur during the "period of restoration" that you would not have incurred if there had been no **direct physical loss by or from flood** to the insured property at the **described location.**

c. "Operations" means your usual and customary **business** activities normally occurring at the **described location**.

d. "Period of Restoration" means that period of time that:

(1) Begins fifteen (15) days after a **direct physical loss by or from flood** to insured property; and

(2) Ends on the earlier of:

(a) The date when the covered property at the **described location** should have been repaired, rebuilt or replaced, using due diligence, reasonable speed, and similar quality; or

(b) The date when your **business** activities resumed, or should have resumed, at a new permanent location.

(3) Does not include any increased period required due to the enforcement of any ordinance, law or civil authority restrictions after a covered event, caused directly or indirectly by the event or damage from the event, that:

(a) Regulates the construction, use or repair, or requires the tearing down, of any property; or **(b) Requires** any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **pollutants**.

Repair or replacement of the property at the **described location** must begin as soon as practicable. The "period of restoration" does not include any increased period required due to failure to begin repair or replacement of the insured property at the **described location** within 72 hours after the **direct physical loss by or from flood**.

The expiration date of this **policy** will not cut short the "period of restoration."

e. "Rental income" means net income (Net Profit or Loss before income taxes) that would have been earned or incurred from tenant occupancy of the premises described in the **Declarations Page** as furnished and equipped by **you**.

f. "Suspension" means the slowdown or cessation of your **business** activities. The "suspension" must be caused by **direct physical loss by or from flood** to insured property at the **described location** listed in the **Declarations Page,** for which a Business Income and Extra Expense Limit is shown.

IV. PROPERTY NOT COVERED

We do not cover any of the following:

1. Contents not inside a **building**;

2. A **building**, and contents in it, located entirely in, on, or over water or seaward of mean high tide;

3. Open structures, including a **building** used as a boathouse or any structure or **building** into which boats are floated, and contents located in, on, or over water;

4. Recreational vehicles, travel trailers, motor homes, and mobile homes, even if affixed to a permanent foundation;

© 2023 Tokio Marine Highland Insurance Services, Inc.

5. Self-propelled vehicles or machines, including their parts and equipment. However, we do cover self-propelled vehicles or machines not licensed for use on public roads that are:

a. Used mainly to service the **described location**, or

b. Designed and used to assist handicapped persons,

while the vehicles or machines are inside a **building** at the **described location**;

6. Land, land values, lawns, trees, shrubs, plants, growing crops, or animals;

7. Accounts, bills, coins, currency, deeds, evidences of debt, medals, money, scrip, stored value cards, postage stamps, securities, bullion, manuscripts, or other valuable papers;

8. Underground structures and equipment, including wells, septic tanks, and septic systems;

9. Those portions of walks, walkways, decks, driveways, patios and other surfaces, all whether protected by a roof or not, located outside the perimeter, exterior walls of the insured **building** or the **building** in which the insured **unit** is located;

10. Containers, including related equipment, such as, but not limited to, tanks containing gases or liquids;

11. **Buildings** or **units** and all their contents if more than 49% of the **actual cash value** of the **building** or **unit** is below ground, unless the lowest level is at or above the **base flood** elevation and is below ground by reason of earth having been used as insulation material in conjunction with energy efficient building techniques;

12. Fences, retaining walls, seawalls, bulkheads, wharves, piers, bridges, and docks;

13. Aircraft or watercraft, or their furnishings and equipment;

14. Hot tubs and spas that are not bathroom fixtures, and swimming pools, and their equipment such as, but not limited to, heaters, filters, pumps, and pipes, wherever located;

15. Property not eligible for **flood** insurance pursuant to the provisions of the Coastal Barrier Resources Act and the Coastal Barrier Improvement Act and amendments to these Acts;

16. Contents you own in common with other **unit** owners comprising the membership of an **Association**; or

17. A **unit** in a **residential condominium building**.

V. EXCLUSIONS

A. We only provide coverage for **direct physical loss by or from flood**, which means that we do not pay you for:

1. Loss of revenue or profits of any kind; except as provided under Coverage **E** - Business Income and Extra Expense, if such coverage was purchased and listed on the **Declarations Page**;

2. Loss of use of, or access to, the insured property or **described location**;

3. Loss from interruption of **business** or production; except as provided under Coverage **E** - Business Income and Extra Expense, if such coverage was purchased and listed on the **Declarations Page**;

4. Any additional living expenses incurred while the insured **building** is being repaired or is unable to be occupied for any reason;

5. The cost of complying with any ordinance or law requiring or regulating the construction, demolition, remodeling, renovation, or repair of property, including removal of any resulting debris. This exclusion does not apply to any eligible activities we describe in Coverage **D** - Increased Cost of Compliance; or

6. Any other economic loss you suffer.

B. We do not insure a loss directly or indirectly caused by a **flood** that is already in progress at the time and date:

1. The **policy** term begins; or

2. Coverage is added at your request.

© 2023 Tokio Marine Highland Insurance Services, Inc.

C. We do not insure for loss to property caused directly by earth movement even if the earth movement is caused by **flood**. Some examples of earth movement that we do not cover are:

1. Earthquake;

2. Landslide;

3. Land subsidence;

4. Sinkholes;

5. Destabilization or movement of land that results from accumulation of water in subsurface land area; or

6. Gradual erosion.

We do, however, pay for losses from **mudflow** and land subsidence as a result of erosion that are specifically covered under our definition of **flood** (see **II.A.1.c.** and **II.A.2**.).

D. We do not insure for **direct physical loss** caused directly or indirectly by any of the following:

1. The pressure or weight of ice;

2. Freezing or thawing;

3. Rain, snow, sleet, hail, or water spray;

4. Water, moisture, mildew, or mold damage that results primarily from any condition:

a. Substantially confined to the insured **building**; or

b. That is within your control, including but not limited to:

(1) Design, structural, or mechanical defects;
(2) Failure, stoppage, or breakage of water or sewer lines, drains, pumps, fixtures, or equipment; or
(3) Failure to inspect and maintain the property after a **flood** recedes;

5. Water or waterborne material that:

a. Backs up through sewers or drains;

b. Discharges or overflows from a sump, sump pump, or related equipment; or

c. Seeps or leaks on or through the covered property;

unless there is a **flood** in the area and the **flood** is the proximate cause of the sewer or drain backup, sump pump discharge or overflow, or seepage of water;

6. The pressure or weight of water unless there is a **flood** in the area and the **flood** is the proximate cause of the damage from the pressure or weight of water;

7. Power, heating, or cooling failure unless the failure results from **direct physical loss by or from flood** to power, heating, or cooling equipment situated on the **described location**;

8. Theft, fire, explosion, wind, or windstorm;

9. Anything you or your agent do or conspire to do to cause loss by **flood** deliberately;

10. Alteration of the insured property that significantly increases the risk of **flooding**.

E. We do not insure for loss to any **building** or contents located on land leased from the Federal Government, arising from or incident to the flooding of the land by the Federal Government, where the lease expressly holds the Federal Government harmless under flood insurance issued under any Federal Government program.

F. We do not pay for the testing for or monitoring of **pollutants** unless required by law or ordinance.

© 2023 Tokio Marine Highland Insurance Services, Inc.

VI. DEDUCTIBLES

A. When a loss is covered under this **policy**, we will pay only that part of the loss that exceeds your deductible amount, subject to the limit of liability that applies. The deductible amount is shown on the **Declarations Page**.

However, when a **building** under construction, alteration, or repair does not have at least two rigid exterior walls and a fully secured roof at the time of loss, your deductible amount will be two times the deductible that would otherwise apply to a completed **building**.

B. In each loss from **flood**, separate deductibles apply to Coverage **A** - Building and Coverage **B** - Contents, insured by this **policy**.

C. The deductible does not apply to:

1. **III.C.2.** Loss Avoidance Measures; or

3. **III.D.** Increased Cost of Compliance.

VII. GENERAL CONDITIONS

A. Pair and Set Clause

In case of loss to an article that is part of a pair or set, we will have the option of paying you:

1. An amount equal to the cost of replacing the lost, damaged, or destroyed article, minus its depreciation; or

2. The amount that represents the fair proportion of the total value of the pair or set that the lost, damaged, or destroyed article bears to the pair or set.

B. Concealment or Fraud and Policy Voidance

1. With respect to all insureds under this **policy**, this **policy:**

a. Is void;

b. Has no legal force or effect;

c. Cannot be renewed; and

d. Cannot be replaced by a new **policy,** if, before or after a loss, you or any other insured or your agent have at any time:

(1) Intentionally concealed or misrepresented any material fact or circumstance;

(2) Engaged in fraudulent conduct; or

(3) Made false statements;

relating to this **policy** or any other insurance issued by us.

2. This **policy** will be void as of the date the wrongful acts described in **B.1.** above were committed.

3. Fines, civil penalties, and imprisonment under applicable Federal laws may also apply to the acts of fraud or concealment described above.

4. This **policy** is also void for reasons other than fraud, misrepresentation, or wrongful act.

C. Other Insurance

1. If a loss covered by this **policy** is also covered by other insurance that includes **flood** coverage, we will not pay more than the amount of insurance you are entitled to for lost, damaged, or destroyed property insured under this **policy** subject to the following:

© 2023 Tokio Marine Highland Insurance Services, Inc.

a. We will pay only the proportion of the loss that the amount of insurance that applies under this **policy** bears to the total amount of insurance covering the loss, unless **C.1.b.** or **c.** immediately below applies.

b. If the other policy was designed to provide excess coverage and has a provision stating that it is excess insurance, this **policy** will be primary.

c. This **policy** will be primary (but subject to its own deductible) up to the deductible in the other **flood** policy (except another policy as described in **C.1.b.** above). When the other deductible amount is reached, this **policy** will participate in the same proportion that the amount of insurance under this **policy** bears to the total amount of both policies, for the remainder of the loss.

2. If there is other insurance in the name of your **Association** covering the same property covered by this **policy**, then this **policy** will be excess over the other insurance.

D. Amendments, Waivers, Assignment

This **policy** cannot be changed nor can any of its provisions be waived without our express written consent. No action that we take under the terms of this **policy** constitutes a waiver of any of our rights. You may not assign this **policy.**

E. Cancellation of Policy by You

You may cancel this **policy** at any time by returning it to us or notifying us in writing of the future date that the **cancellation** is to take effect. If you cancel this **policy**, you will be entitled to a pro-rata refund of the premium, except in the event of a claim as then this **policy** will be fully earned.

F. Non-renewal or Cancellation of the Policy by Us

We may elect to non-renew or to cancel this **policy** by sending written notice to your mailing address shown on the **Declarations Page**, at least forty-five (45) days prior to the effective date of the non-renewal or **cancellation**. Our written notice to you shall indicate the reason or reasons for non-renewal or **cancellation** and a copy will be sent to any known mortgagee. When **cancellation** is for nonpayment of premium, we will cancel this **policy** within the shortest notice period allowed by law.

G. Earned Premium

The total annual premium will be fully earned in the event of a claim which is likely to involve this **policy** or a loss which may be covered by this **policy**.

H. Policy Renewal

1. This **policy** will expire at 12:01 a.m. on the last day of the **policy** term.

2. We may offer to renew this **policy**, at the premiums and under the **policy** provisions in effect on the date of renewal. If we elect to renew this **policy**, a Notice of Expiration and Renewal Offer will be provided, along with any changes in the **policy** provisions or amounts of coverage at least forty-five (45) days prior to the expiration of this **policy**. If you reject our offer, this **policy** will automatically terminate at the end of the current **policy** period. Failure to pay the required renewal premium in full on or before the due date means you have rejected our offer.

3. In connection with the renewal of this **policy**, we may ask you during the **policy** term to recertify, on a Recertification Questionnaire we will provide to you, the rating information used to rate your most recent application for or renewal of insurance.

I. Conditions Suspending or Restricting Insurance

We are not liable for loss that occurs while there is a hazard that is increased by any means within your control or knowledge.

J. Requirements in Case of Loss

In case of a **flood** loss to insured property, you must:

1. Give prompt written notice to us;

2. As soon as reasonably possible, separate the damaged and undamaged property, putting it in the best possible order so that we may examine it;

3. Prepare an inventory of all damaged **building** and contents showing the quantity, description, **actual cash value,** and amount of loss. Attach all bills, receipts, and related documents;

© 2023 Tokio Marine Highland Insurance Services, Inc.

4. Within sixty (60) days after the loss, send us a proof of loss, which is your statement of the amount you are claiming under the **policy** signed and sworn to by you, and which furnishes us with the following information:

   a. The date and time of loss;

   b. A brief explanation of how the loss happened;

   c. Your interest (for example, "owner") and the interest, if any, of others in the damaged property;

   d. Details of any other insurance that may cover the loss;

   e. Changes in title or occupancy of the covered property during the term of the **policy**;

   f. Specifications of damaged **buildings** and detailed repair estimates;

   g. Names of mortgagees or anyone else having a lien, charge, or claim against the insured property;

   h. Details about who occupied any insured **building** at the time of loss and for what purpose; and

   i. The inventory of damaged contents described in **J.3.** above.

5. In completing the proof of loss, you must use your own judgment concerning the amount of loss and justify that amount.

6. You must cooperate with the adjuster or representative in the investigation of the claim.

7. The insurance adjuster whom we hire to investigate your claim may furnish you with a proof of loss form, and she or he may help you complete it. However, this is a matter of courtesy only, and you must still send us a proof of loss within sixty (60) days after the loss even if the adjuster does not furnish the form or help you complete it.

8. We have not authorized the adjuster to approve or disapprove claims or to tell you whether we will approve your claim.

9. At our option, we may accept the adjuster's report of the loss instead of your proof of loss. The adjuster's report will include information about your loss and the damages you sustained. You must sign the adjuster's report. At our option, we may require you to swear to the report.

K. Our Options After a Loss

Options we may, in our sole discretion, exercise after loss include the following:

1. At such reasonable times and places that we may designate, you must:

   a. Show us or our representative the damaged property;

   b. Submit to examination under oath, while not in the presence of another insured, and sign the same; and

   c. Permit us to examine and make extracts and copies of:

      (1) Any policies of property insurance insuring you against loss and the deed establishing your ownership of the insured real property;

      (2) **Association** documents including the Declarations of the **condominium**, its Articles of Association or Incorporation, Bylaws, rules and regulations, and other relevant documents if you are a **unit** owner in an **association building**; and

      (3) All books of accounts, bills, invoices and other vouchers, or certified copies pertaining to the damaged property if the originals are lost.

2. We may request, in writing, that you furnish us with a complete inventory of the lost, damaged, or destroyed property, including:

   a. Quantities and costs;

   b. **Actual cash values** or replacement cost (whichever is appropriate);

   c. Amounts of loss claimed;

   d. Any written plans and specifications for repair of the damaged property that you can reasonably make available to us; and

   e. Evidence that prior **flood** damage has been repaired.

3. If we give you written notice within thirty (30) days after we receive your signed, sworn proof of loss, we may:

   a. Repair, rebuild, or replace any part of the lost, damaged, or destroyed property with material or property of like kind and quality or its functional equivalent; and

© 2023 Tokio Marine Highland Insurance Services, Inc.

b. Take all or any part of the damaged property at the value that we agree upon or its appraised value.

L. No Benefit to Bailee

No person or organization, other than you, having custody of covered property will benefit from this insurance.

M. Loss Payment

1. We will adjust all losses with you. We will pay you unless some other person or entity is named in the **policy** or is legally entitled to receive payment. Loss will be payable sixty (60) days after we receive your proof of loss (or within ninety (90) days after the insurance adjuster files the adjuster's report signed and sworn to by you in lieu of a proof of loss) and:

a. We reach an agreement with you;

b. There is an entry of a final judgment; or

b. There is a filing of an appraisal award with us, as provided in **VII.P**.

2. If we reject your proof of loss in whole or in part you may:

a. Accept our denial of your claim;

b. Exercise your rights under this **policy**; or

c. File an amended proof of loss, as long as it is filed within sixty (60) days of the date of the loss.

N. Abandonment

You may not abandon to us damaged or undamaged property insured under this **policy**.

O. Salvage

We may permit you to keep damaged property insured under this **policy** after a loss, and we will reduce the amount of the loss proceeds payable to you under the **policy** by the value of the salvage.

P. Appraisal

If you and we fail to agree on the **actual cash value** or, if applicable, replacement cost of your damaged property to settle upon the amount of loss, then either may demand an appraisal of the loss. In this event, you and we will each choose a competent and impartial appraiser within twenty (20) days after receiving a written request from the other. The two appraisers will choose an umpire. If they cannot agree upon an umpire within fifteen (15) days, you or we may request that the choice be made by a judge of a court of record in the State where the covered property is located. The appraisers will separately state the **actual cash value,** the replacement cost, and the amount of loss to each item**.** If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of **actual cash value** and loss, or if it applies, the replacement cost and loss.

Each party will:

1. Pay its own appraiser; and
2. Bear the other expenses of the appraisal and umpire equally.

Q. Mortgage Clause

The word "mortgagee" includes trustee.

Any loss payable under Coverage **A** - Building Property will be paid to any mortgagee of whom we have actual notice as well as any other mortgagee or loss payee determined to exist at the time of loss, and you, as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of precedence of the mortgages.

If we deny your claim, the denial will not apply to a valid claim of the mortgagee, if the mortgagee:

1. Notifies us of any change in the ownership or occupancy, or substantial change in risk of which the mortgagee is aware;

2. Pays any premium due under this **policy** on demand if you have neglected to pay the premium; and

3. Submits a signed, sworn proof of loss within sixty (60) days after receiving notice from us of your failure to do so. All of the terms of this **policy** apply to the mortgagee.

The mortgagee has the right to receive loss payment even if the mortgagee has started foreclosure or similar action on the **building**.

If we decide to cancel or non-renew this **policy,** we will notify the mortgagee at least forty-five (45) days before the

© 2023 Tokio Marine Highland Insurance Services, Inc.

cancellation or non- renewal takes effect.

If we pay the mortgagee for any loss and deny payment to you, we are subrogated to all the rights of the mortgagee granted under the mortgage on the property. Subrogation will not impair the right of the mortgagee to recover the full amount of the mortgagee's claim.

R. Suit Against Us

You may not sue us to recover money under this **policy** unless you have complied with all the requirements of the **policy**. If you do sue, you must start the suit within one (1) year after the date of the written denial of all or part of the claim, and you must file the suit in the United States District Court of the district in which the covered property was located at the time of loss. This requirement applies to any claim that you may have under this **policy** and to any dispute that you may have arising out of the handling of any claim under the **policy**.

S. Subrogation

Whenever we make a payment for a loss under this **policy**, we are subrogated to your right to recover for that loss from any other person. That means that your right to recover for a loss that was partly or totally caused by someone else is automatically transferred to us, to the extent that we have paid you for the loss. We may require you to acknowledge this transfer in writing. After the loss, you may not give up our right to recover this money or do anything that would prevent us from recovering it. If you make any claim against any person who caused your loss and recover any money, you must pay us back first before you may keep any of that money.

T. Continuous Lake Flooding

1. If an insured **building** has been **flooded** by rising lake waters continuously for ninety (90) days or more and it appears reasonably certain that a continuation of this **flooding** will result in a covered loss to the insured **building** equal to or greater than the **building policy** limits plus the deductible or the maximum payable under the **policy** for any one **building** loss, we will pay you the lesser of these two amounts without waiting for the further damage to occur if you sign a release agreeing:

a. To make no further claim under this **policy;**

b. Not to seek renewal of this **policy**;

c. Not to apply for any flood insurance underwritten by us for property at the **described location;** and

d. Not to seek a premium refund for current or prior terms.

If the **policy** term ends before the insured **building** has been **flooded** continuously for ninety (90) days, the provisions of this paragraph **T.1.** will apply when the insured **building** suffers a covered loss before the **policy** term ends.

2. If your insured **building** is subject to continuous lake flooding from a closed basin lake, you may elect to file a claim under either paragraph **T.1.** above or **T.2.** (A "closed basin lake" is a natural lake from which water leaves primarily through evaporation and whose surface area now exceeds or has exceeded 1 square mile at any time in the recorded past. Most of the nation's closed basin lakes are in the western half of the United States, where annual evaporation exceeds annual precipitation and where lake levels and surface areas are subject to considerable fluctuation due to wide variations in the climate. These lakes may overtop their basins on rare occasions.) Under this paragraph **T.2.** we will pay your claim as if the **building** is a total loss even though it has not been continuously inundated for ninety (90) days, subject to the following conditions:

a. Lake **flood** waters must damage or imminently threaten to damage your **building**.

b. Before approval of your claim, you must:

(1) Agree to a claim payment that reflects your buying back the salvage on a negotiated basis;
(2) Comply with paragraphs **T.1.a.** through **T.1.d.** above.

c. Within ninety (90) days of approval of your claim, you must move your **building** to a new location outside the ASC. You will receive an additional thirty (30) days to move if you show there is sufficient reason to extend the time.

d. Before the final payment of your claim, you must acquire an elevation certificate and a floodplain development permit from the local floodplain administrator for the new location of your **building**.

e. Before the approval of your claim, the community having jurisdiction over your **building** must:

(1) Adopt a permanent land use ordinance, or a temporary moratorium for a period not to exceed six (6) months to be followed immediately by a permanent land use ordinance, that is consistent with the provisions specified in the

© 2023 Tokio Marine Highland Insurance Services, Inc.

easement required in paragraph **T.2.b.** above.

(2) Agree to declare and report any violations of this ordinance to FEMA so that, under Section 1316 of the **Act**, flood insurance to the **building** can be denied; and

(3) Agree to maintain as deed-restricted, for purposes compatible with open space or agricultural or recreational use only, any affected property the community acquires an interest in. These deed restrictions must be consistent with the provisions of paragraph **T.2.b.** above, except that, even if a certified project protects the property, the land use restrictions continue to apply if the property was acquired under the Hazard Mitigation Grant Program or the Flood Mitigation Assistance Program. If a non-profit land trust organization receives the property as a donation, that organization must maintain the property as deed-restricted, consistent with the provisions of paragraph **T.2.b.** above.

f. Before the approval of your claim, the affected State must take all action set forth in FEMA's "Policy Guidance for Closed Basin Lakes."

g. You must have **NFIP** compliant **flood** insurance coverage continuously in effect from a date established by FEMA until you file a claim under paragraph **T.2.** If a subsequent owner buys **NFIP** compliant insurance that goes into effect within sixty (60) days of the date of transfer of title, any gap in coverage during that 60-day period will not be a violation of this continuous coverage requirement. For the purpose of honoring a claim under this paragraph **T.2.**, we will not consider to be in effect any increased coverage that became effective after the date established by FEMA. The exception to this is any increased coverage in the amount suggested by your insurer as an inflation adjustment.

h. This paragraph **T.2.** will be in effect for a community when the FEMA Regional Administrator for the affected region provides to the community, in writing, the following:

(1) Confirmation that the community and the State are in compliance with the conditions in paragraphs **T.2.e.** and **T.2.f.** above; and

(2) The date by which you must have flood insurance in effect.

U. Duplicate Policies Not Allowed

1. We will not insure your property under more than one **policy**.

If we find that the duplication was not knowingly created, we will give you written notice. The notice will advise you that you may choose one of several options under the following procedures:

a. If you choose to keep in effect the **policy** with the earlier effective date, you may also choose to add the coverage limits of the later **policy** to the limits of the earlier **policy**. The change will become effective as of the effective date of the later **policy**.

b. If you choose to keep in effect the **policy** with the later effective date, you may also choose to add the coverage limits of the earlier **policy** to the limits of the later **policy**. The change will be effective as of the effective date of the later **policy**.

In either case, you must pay the pro rata premium for the increased coverage limits within thirty (30) days of the written notice. In no event will the resulting coverage limits exceed our permissible limits of coverage or your insurable interest, whichever is less.

We will make a refund to you, according to applicable **NFIP** rules, of the premium for the **policy** not being kept in effect.

2. Your option under Condition **U.** Duplicate Policies Not Allowed to elect which **policy** to keep in effect does not apply when duplicates have been knowingly created. Losses occurring under such circumstances will be adjusted according to the terms and conditions of the earlier **policy**. The **policy** with the later effective date must be canceled.

V. Loss Settlement

1. Introduction

This policy provides two methods of settling losses: Replacement Cost and **Actual Cash Value**. Each method is explained below.

a. Replacement Cost loss settlement, described in **V.2.** below, applies to covered property that meets the definition of a commercial **building** and all covered **business** contents contained therein.

b. **Actual Cash Value** loss settlement applies to covered property not subject to replacement cost settlement and to the property listed in **V.3.** below.

© 2023 Tokio Marine Highland Insurance Services, Inc.

2. Replacement Cost Loss Settlement

The following loss settlement conditions apply to covered property described in **V.1.a.** above:

a. We will pay to repair or replace the damaged covered property after application of the deductible and without deduction for depreciation, but not more than the least of the following amounts:

(1) The limit of liability applicable to the damaged covered property, as shown on the **Declarations Page;**

(2) The replacement cost of that part of the damaged covered property, with materials of like kind and quality, and for like use; or

(3) The necessary amount actually spent to repair or replace the damaged part of the covered property for like use.

b. If the **building** is rebuilt at a new location, the cost described above is limited to the cost that would have been incurred if the **building** had been rebuilt at its former location.

c. When the full cost of repair or replacement is more than $1,000 or more than 5 percent of the whole amount of insurance that applies to the commercial **building** and covered **business** contents, we will not be liable for any loss under **V.2.a.,** above, or **V.3.a.,** below, unless and until actual repair or replacement is completed.

d. You may disregard the replacement cost conditions above and make claim under this **policy** for loss to any covered property on an **actual cash value** basis. You may then make claim for any additional liability according to **V.2.a., b.,** and **c.** above, provided you notify us of your intent to do so within one hundred eighty (180) days after the date of loss.

3. Actual Cash Value Loss Settlement

The types of property noted below are subject to **actual cash value** loss settlement.

a. We will pay the **actual cash value** of the damaged part of the following types of property, until such time as you actually repair or replace the damaged covered property, with materials of like kind and quality, and for like use, but not more than the amount of insurance that applies to that property:

(a) Other detached permanent structures, appurtenant to the **building**.

(b) Business contents contained within the **building**.

(c) Appliances, carpets, and carpet pads installed within the **building**.

Within one hundred eighty (180) days of our **actual cash value** payment to you, you may make a claim for reimbursement of the additional cost you actually spend to repair or replace the damaged covered property, with materials of like kind and quality, and for like use. You must present verifiable payment receipts for each item of covered property.

b. Outdoor awnings, outdoor antennas or aerials of any type, and other outdoor equipment.

c. Any property covered under this **policy** that is abandoned after a loss and remains as debris anywhere on the **described location.**

d. A commercial **building** that is **vacant** and the covered **business** contents contained within it.

VIII. LIBERALIZATION CLAUSE

If we make a change that broadens your coverage under this edition of our **policy,** but does not require any additional premium, then that change will automatically apply to your insurance as of the date we implement the change, provided that this implementation date falls within sixty (60) days before or during the **policy** term stated on the **Declarations Page**.

© 2023 Tokio Marine Highland Insurance Services, Inc.

IX. WHAT LAW GOVERNS

This **policy** and all disputes arising from the handling of any claim under the **policy** are governed exclusively by state insurance law, the **Act**, and Federal common law, as each is applicable, based on the location of your property.

© 2023 Tokio Marine Highland Insurance Services, Inc.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL EXCLUSIONS
LAND / WATER / AIR
SEEPAGE / POLLUTION / CONTAMINATION

This endorsement modifies insurance provided under the following:

COMMERCIAL FLOOD INSURANCE COVERAGE FORM
COMMERCIAL FLOOD INSURANCE TENANT IMPROVEMENTS AND BETTERMENTS COVERAGE FORM
COMMERCIAL EXCESS FLOOD INSURANCE COVERAGE FORM

Notwithstanding any provision to the contrary within the "policy," the following additional Exclusions apply:

A. Land, Water and Air Exclusion

This "policy" does not insure land (including but not limited to land on which the insured property is located), water or air, howsoever and wherever occurring, or any interest or right therein.

B. Seepage and/or Pollution and/or Contamination Exclusion

Except for limited coverage for "Pollution Damage" provided under Section III.C.3. of the Primary Flood Insurance Policy – Commercial Property Form (PIC-CPF-1), Seepage, Pollution, and Contamination are each excluded as follows:

This "policy" does not insure:

1. Any loss, damage, cost or expense;

2. Any increase in insured loss, damage, cost or expense; or

3. Any loss, damage, cost, expense, fine or penalty, which is incurred, sustained or imposed by order, direction, instruction or request of, or by any agreement with, any court, government agency or any public, civil or military authority, or threat thereof (and whether or not as a result of public or private litigation);

which arises from any kind of seepage or any kind of pollution and/or contamination, or threat thereof, whether or not caused by or resulting from a peril insured, or from steps or measures taken in connection with the avoidance, prevention, abatement, mitigation, remediation, clean-up or removal of such seepage or pollution and/or contamination or threat thereof.

The term "any kind of seepage or any kind of pollution and/or contamination" as used in this endorsement includes (but is not limited to):

a. Seepage of, or pollution and/or contamination by, anything, including but not limited to, any material designated as a hazardous substance by the United State Environmental Protection Agency or as a hazardous material by the United States Department of Transportation or any substance designated or defined as toxic, dangerous, hazardous or deleterious to persons or the environment under any other federal, state, provincial, municipal or other law, ordinance or regulation; and

b. The presence, existence, or release of anything which endangers or threatens to endanger the health, safety, or welfare of persons or the environment.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

APPLICABLE LAW

This endorsement modifies insurance provided under the following:

COMMERCIAL FLOOD INSURANCE COVERAGE FORM
COMMERCIAL FLOOD INSURANCE TENANT IMPROVEMENTS AND BETTERMENTS COVERAGE FORM
COMMERCIAL EXCESS FLOOD INSURANCE COVERAGE FORM

This insurance shall be subject to the applicable state law to be determined by the court of competent jurisdiction as determined by the provisions of the Service of Suit Clause.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BIOLOGICAL OR CHEMICAL MATERIALS EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL FLOOD INSURANCE COVERAGE FORM

Notwithstanding any provision to the contrary within this "policy," it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials, regardless of any other cause or event contributing concurrently or in any other sequence thereto.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ELECTRONIC DATA ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL FLOOD INSURANCE COVERAGE FORM
COMMERCIAL FLOOD INSURANCE TENANT IMPROVEMENTS AND BETTERMENTS COVERAGE FORM
COMMERCIAL EXCESS FLOOD INSURANCE COVERAGE FORM

Notwithstanding any provision to the contrary in the "policy," it is understood and agreed as follows:

A. Electronic Data Exclusion

This "policy" does not insure loss, damage, destruction, distortion, erasure, corruption or alteration of electronic data from any cause whatsoever (including but not limited to computer virus) or loss of use, reduction in functionality, cost, expense or whatsoever nature resulting therefrom, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

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

2. Computer virus means a set of corrupting, harmful or otherwise unauthorized instructions of code, including a set of maliciously introduced unauthorized instructions or code, programmatic or otherwise, that propagate themselves through a computer system or network or whatsoever nature. Computer virus includes, but is not limited to Trojan horses, worms and time or logic bombs.

B. Electronic Data Processing Media Valuation

Should electronic data processing media insured by this "policy" suffer "direct physical loss by or from flood" insured by this "policy," then the basis of valuation shall be the cost of the blank media plus the cost of copying the electronic data from back-up or from originals of a previous generation. These costs will not include research and engineering or any costs of recreating, gathering or assembling such electronic data.

If the media is not repaired, replaced or restored, the basis of valuation shall be the cost of the blank media.

However, this "policy" does not insure an amount pertaining to the value of such electronic data to the insured or any other party, even if such electronic data cannot be recreated, gathered or assembled.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ELECTRONIC DATE RECOGNITION EXCLUSION (EDRE)

This endorsement modifies insurance provided under the following:

COMMERCIAL FLOOD INSURANCE COVERAGE FORM
COMMERCIAL FLOOD INSURANCE TENANT IMPROVEMENTS AND BETTERMENTS COVERAGE FORM
COMMERCIAL EXCESS FLOOD INSURANCE COVERAGE FORM

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

1. 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, program or software and/or any microchip, integrated circuit or similar device in computer equipment, whether the property of the insured or not; or

2. Any change, alteration, or modification involving the date change to the year 2000, or any other data change, including leap year calculation, to any such computer system, hardware, program or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the insured or not.

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

RADIOACTIVE CONTAMINATION EXCLUSION
PHYSICAL DAMAGE – DIRECT

This endorsement modifies insurance provided under the following:

COMMERCIAL FLOOD INSURANCE COVERAGE FORM
COMMERCIAL FLOOD INSURANCE TENANT IMPROVEMENTS AND BETTERMENTS COVERAGE FORM
COMMERCIAL EXCESS FLOOD INSURANCE COVERAGE FORM

This "policy" does not cover any loss or damage arising directly or indirectly from nuclear reaction, nuclear radiation, or radioactive contamination however such nuclear reaction, nuclear radiation, or radioactive contamination may have been caused.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SERVICE OF SUIT CLAUSE

This endorsement modifies insurance provided under the following:

COMMERCIAL FLOOD INSURANCE COVERAGE FORM
COMMERCIAL FLOOD INSURANCE TENANT IMPROVEMENTS AND BETTERMENTS COVERAGE FORM
COMMERCIAL EXCESS FLOOD INSURANCE COVERAGE FORM

This Service of Suit clause will not read to conflict with or override the obligations of the parties to arbitrate their disputes as provided for in any Arbitration provision within this "policy." This clause is intended as an aid to compelling arbitration or enforcing such arbitration or arbitral award, not as an alternative to such arbitration provision for resolving disputes arising out of his contract of insurance (or reinsurance).

It is agreed that in the event of our failure to pay any amount claimed to be due hereunder, we, at the request of the insured (or reinsured), will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this clause constitutes or should be understood to constitute a waiver of our rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States, or of any state in the United States.

It is further agreed that service of process in such suit may be made upon us at the following address:

Tokio Marine Specialty Insurance Company
ATTN: Counsel, Legal Department
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004

In any suit instituted against us upon this contract, we will abide by the final decision of such court or of any appellate court in the event of an appeal.

The above counsel is authorized and directed to accept service of process on behalf of the company in any such suit and/or upon the request of the insured (or reinsured) to give a written undertaking to the insured (or reinsured) that they will enter a general appearance upon the company's behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefore, we hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the insured (or reinsured) or any beneficiary hereunder arising out of this contract of insurance (or reinsurance), and hereby designate the above-named as the person to whom said officer is authorized to mail such process or a true copy thereof.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TERRORISM EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL FLOOD INSURANCE COVERAGE FORM
COMMERCIAL FLOOD INSURANCE TENANT IMPROVEMENTS AND BETTERMENTS COVERAGE FORM
COMMERCIAL EXCESS FLOOD INSURANCE COVERAGE FORM

Notwithstanding any provision to the contrary within this "policy," it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

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

This endorsement excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

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

In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAR AND CIVIL WAR EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL FLOOD INSURANCE COVERAGE FORM
COMMERCIAL FLOOD INSURANCE TENANT IMPROVEMENTS AND BETTERMENTS COVERAGE FORM
COMMERCIAL EXCESS FLOOD INSURANCE COVERAGE FORM

Notwithstanding anything to the contrary herein, this “policy” does not cover loss or damage directly or indirectly occasioned by, happening through, or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalization or requisition or destruction of, or damage to, property by or under the order of any government or public or local authority.

Reinsurance Zero Collateral Clause (U.S.A.)
For use with US reinsurance contracts incepting after October 1 2022

This reinsurance contract is written by each **Individual Subscribing Reinsurer** under reciprocal jurisdiction reinsurer status pursuant to a covered agreement between the United States and the United Kingdom, and therefore the **Individual Subscribing Reinsurers** qualify to provide reinsurance to US cedents without posting collateral for statutory reinsurance credit.

Nevertheless, each **Individual Subscribing Reinsurer** agrees that it will provide collateral for 100% of its own share of the liabilities attributable to the reinsurance ceded by this reinsurance contract, as may be required by a relevant regulator to enable the Company to obtain statutory credit for this reinsurance contract in an applicable jurisdiction, if:

1) without such collateral, the Company would be denied statutory credit for reinsurance ceded to that **Individual Subscribing Reinsurer** pursuant to the credit for reinsurance law or regulations in any applicable jurisdiction; or

2) such **Individual Subscribing Reinsurer** resists the enforcement of

   a. a final judgment that is enforceable under law of the jurisdiction in which it was obtained, or

   b. a properly enforceable arbitration award,

   whether such judgment or award is obtained by the Company or by its legal successor or on behalf of its resolution estate.

Such collateral shall be in a form and manner acceptable to such regulator and chosen by the **Individual Subscribing Reinsurer**, or if there is no stipulation by such regulator, as determined at the **Individual Subscribing Reinsurer's** sole discretion.

This reinsurance contract does not constitute an American Reinsurance Policy as defined under the Lloyd's US Situs Credit for Reinsurance Trust Deed or the Lloyd's American Credit for Reinsurance Joint Asset Trust Deed ("Trust Funds"). Therefore, any required collateral will be provided separately from those Trust Funds and the Company does not have recourse to those Trust Funds for any purpose with respect to this reinsurance contract.

Definitions

Individual Subscribing Reinsurer means an individual participating Lloyd's Syndicate.

LMA5585
9 June 2022