



CAPACITY
BY JOE FLOOD
INSURANCE

POLICY

EXCESS PHYSICAL DAMAGE FOLLOW FORM TABLE OF CONTENTS

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EXCESS PHYSICAL DAMAGE FOLLOW FORM

INSURING CLAUSE

Subject to the limitations, terms and conditions contained in this Insurance or added hereto, the Insurers agree to indemnify the Insured named in the Risk Details in respect of Direct Physical loss or damage to property as detailed in the Risk Details, occurring during the period detailed in the Risk Details and caused by any of such Perils as are detailed in the Risk Details and which are also covered by and defined in the Insurance(s) issued by the Primary Insurers stated in the Underlying Insurance Identification on the declarations page.

APPLICATION OF UNDERLYING PROVISIONS

In respect of the Perils hereby insured against this Insurance is subject to the same warranties, terms and conditions (except as regards the premium, the Limits of Liability other than the deductible or self-insurance provision where applicable, and the renewal agreement, if any, AND EXCEPT AS OTHERWISE PROVIDED HEREIN) as are contained in or as may be added to the Insurance(s) of the Primary Insurers prior to the happening of a loss for which claim is made hereunder and should any alteration be made in the premium for the Insurance(s) of the Primary Insurers, then the premium hereon may be adjusted accordingly.

LIMIT

Provided always that liability attaches to the Insurers only after the Primary and Underlying Excess Insurers have paid or have admitted liability for the full amount of their respective ultimate net loss liability as shown in the Risk Details, and then the Limits of the Insurers Liability shall be those as detailed in the Risk Details and the Insurers shall be liable to pay the ultimate net loss up to the full amount of such Limit(s).

MAINTENANCE OF PRIMARY AND UNDERLYING EXCESS INSURANCE(S) AND LIMITS

It is a condition precedent to recovery under this Insurance that the Insurance(s) and Limit(s) of the Primary and Underlying Excess Insurer(s) shall be maintained in full force and effect, except for any reduction or exhaustion of any underlying aggregate Limits of Liability contained therein, solely by the amount of loss(es) paid or admitted during the period of this Insurance as detailed in the Risk Details. Only losses which, except for the amount thereof, would have been payable under this Insurance may contribute to the satisfaction, reduction or exhaustion of underlying amounts and/or deductibles.



In the event of such reduction of the aggregate Limits of Liability of the Primary and Underlying Excess Insurance(s), this Insurance shall pay excess over the reduced aggregate limit. In the event of exhaustion of the aggregate Limits of Liability of the Primary and Underlying Excess Insurance(s) this Insurance, subject to all its provisions, shall continue in force as Primary Insurance in respect of the peril for which the aggregate Limit of Liability has been so exhausted and the deductible or self-insured amount applicable to that peril, as detailed in the Underlying Insurance Identification on the declarations page, shall apply to this Insurance.

UNCOLLECTIBILITY OF OTHER INSURANCE

Notwithstanding any of the terms of this Insurance that might be construed otherwise, the cover provided by this Insurance shall always be excess over the maximum monetary limits of the Primary and any Underlying Excess Insurances as shown in the the Risk Details (reduced only by reduction of any underlying aggregate limits as provided for in Clause 4. Maintenance of Primary and Underlying Excess Insurance(s) and Limits above) regardless of the uncollectibility (in whole or in part) of any underlying insured amounts for any reason, including, but not limited to, the financial impairment or insolvency if an underlying Insurer.

The risk of uncollectibility (in whole or in part) of other insurance, whether because of financial impairment or insolvency of an underlying or other insurer or for any reason, is expressly retained by the Insured and is not in any way or under any circumstances insured or assumed by Insurers.

DEFINITIONS

- (a) **Occurrence:** the words “per occurrence” shall mean a loss or series of losses arising out of one event.
- (b) **Ultimate Net Loss:** The words “ultimate net loss” shall mean the loss sustained by the Insured as a result of the happening of the perils insured against by this Insurance, limited by
 - (i) any sub-limits contained within this Insurance or the Insurance(s) of the Primary and/or the Underlying Excess Insurers.



- (ii) making deductions for all salvages, recoveries, and other insurances (other than recoveries under the Insurance(s) of the Primary and Underlying Excess Insurers).
- (c) **Period:** The word "period" shall be understood to mean a period of time commencing on the date as shown in Risk Details.

APPLICATION OF RECOVERIES

All salvages, recoveries or payments recovered or received subsequent to a loss settlement under this Insurance shall be applied as if recovered or received prior to such settlement and all necessary adjustments shall then be made between the Insured and the Insurers, provided always that nothing in this Insurance shall be construed to mean that losses under this Insurance are not recoverable until the Insured's ultimate net loss has been finally ascertained.

CANCELLATION

This Insurance may be cancelled by the Insured at any time by written notice or by surrender of this Insurance Contract. This Insurance may also be cancelled by or on behalf of the Insurers by delivering to the Insured **and any Mortgagee(s) or Loss Payee(s) named in this Insurance**, or by mailing to the Insured **and any such Mortgagee(s) or Loss Payee(s)**, by registered, certified or other first class mail, at their respective addresses as shown in this Insurance, written notice stating when, not less than 30 days except 10 days for non-payment thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice and this Insurance shall terminate at the date and hour specified in such notice.

If this Insurance shall be cancelled by the Insured, the Insurers shall retain the customary short rate proportion of the premium hereon, except that if this Insurance is on an adjustable basis, the Insurers shall receive the earned premium hereon, or the customary short rate proportion of any minimum premium stipulated herein, whichever is the greater.

If this Insurance shall be cancelled by or on behalf of the Insurers, the Insurers shall retain the pro rata proportion of the premium hereon, except that if this Insurance is on an adjustable basis the Insurers shall receive the earned premium hereon, or the pro rata proportion of any minimum premium stipulated herein, whichever is the greater.



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Payment or tender of any unearned premium by the Insurers shall not be a condition precedent to the effectiveness of cancellation but such payment shall be made as soon as practicable.

If the period of limitation relating to the giving of notice is prohibited or made void by any law controlling the construction thereof, such period shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

NOTIFICATION OF CLAIMS

The Insured upon knowledge of any occurrence likely to give rise to a claim hereunder shall give immediate written advice thereof to the person(s) or firm for the purpose shown on the declarations page of this policy.