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# MEMORANDUM OF COVERAGE PROPERTY PROGRAM

EFFECTIVE JULY 1, 2021 - JULY 1, 2022

INTEGRITY

EXCELLENCE

INNOVATION

TEAMWORK

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Issued to the Town of Apple Valley

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# MEMORANDUM OF COVERAGE

## PROPERTY PROGRAM

ADMINISTERED BY THE CALIFORNIA JOINT POWERS INSURANCE AUTHORITY

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**MEMBER:** Town of Apple Valley

**MAILING ADDRESS:** 14955 Dale Evans Parkway  
Apple Valley, CA 92307

**PROTECTION LIMITS:** See Declarations

**PROTECTION PERIOD:** From July 1, 2021 at 12:01 a.m. Pacific Time until July 1, 2022 at 12:01 a.m. Pacific Time.

This Memorandum and any endorsements thereto, are a description of the terms and conditions of the Program through which certain specified and limited self-insured risks of property are administered by the Authority and shared by its Covered Members. *The Memorandum is not an insurance policy.* As provided in Section 990.8 of the California Government Code and appellate court cases of *Orange County Water District v. Association of California Water Agencies JPIA (1997)* and *City of South El Monte v. Southern California Joint Powers Insurance Authority (1995)*, the pooling of self-insured claims or losses among the Members of the Authority shall not be considered insurance nor be subject to regulation under the Insurance Code.

California JPIA



President

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## **DECLARATIONS**

### **A. COVERED MEMBERS:**

California Joint Powers Insurance Authority (the Authority) and its member agencies that participate in its Property Program (a "Covered Member").

### **B. PERIOD OF COVERAGE:**

July 1, 2021 at 12:01 am Pacific Time to July 1, 2022 at 12:01 am Pacific Time.

### **C. COVERED LOCATIONS:**

As held on file with the Authority's authorized representative.

### **D. NOTIFICATION OF LOSSES:**

To the California Joint Powers Insurance Authority via its website claim reporting system.

### **E. COVERAGE PART A - "ALL RISK", EARTHQUAKE, AND FLOOD PERILS**

This is a shared limit program. The limits purchased are on a per occurrence basis (unless specifically stated as aggregated). In the event of an occurrence exhausting the limit provided by the Authority to Covered Members, payment to all Covered Members affected by the occurrence will be made on a proportional basis as outlined by the Authority's policy. Where coverages are aggregated these limits are for all Covered Members for the Period of Coverage unless specifically stated. They are not a per Covered Member maximum.

In the event of loss or damage covered by this MOC - P and subject to coverage terms contained within this MOC - P, the Authority shall not be liable for more than the amounts shown under each Coverage Part.

#### ***LIMITS OF LIABILITY***

\$25,000,000 per occurrence except as follows:

\$25,000,000 shared by all members per occurrence and in the annual aggregate as respects Earthquake Shock for those locations that Covered Members specifically purchase Earthquake Shock coverage.

\$25,000,000 shared by all members per occurrence and in the annual aggregate as respects Flood for those locations that Covered Members specifically purchase Earthquake Shock coverage.

\$10,000,000 shared by all members per occurrence and in the annual aggregate as respects Flood for those locations that the Covered Members do not purchase Earthquake Shock coverage.

The maximum amount recoverable hereunder in respect of all Flood shall not exceed \$25,000,000 in the annual aggregate shared by all members.

The maximum amount recoverable in respects of Earthquake Shock shall not exceed \$25,000,000 in the annual aggregate shared by all members.

***SUBLIMITS OF LIABILITY***

\$25,000,000	Earthquake Sprinkler Leakage.
\$25,000,000	Ordinance or Law (Building Laws, Demolition Cost and Increased Cost of Construction) in respect Earthquake Shock and Flood only, per occurrence and in the Annual Aggregate.
\$25,000,000	Final Contract Value in respect of Real Property in the Course of Construction, including new projects at new locations. Includes Earthquake Shock and Flood for existing Covered Members reported within 60 days. Excludes Earthquake Shock and Flood for new Covered Members.
\$25,000,000	Newly Acquired Property per building or structure for existing Covered Members. Includes Earthquake Shock for existing Covered Members that already purchase earthquake shock, when the new location is reported within 60 days.
\$25,000,000	Newly Acquired Property per building or structure for new Covered Members reported within 60 days. Excludes Earthquake Shock for new Covered Members.
\$5,000,000	Newly Acquired for all piers, docks, wharves and dams per member reported within 60 days. Includes Earthquake Shock and Flood for existing Covered Members that already purchase earthquake shock, when the new location is reported within 60 days. Excludes Earthquake Shock and Flood for new Covered Members.
\$2,000,000	Per occurrence as respects Off Premises Services Business Interruption including Extra Expense.
\$5,000,000	Unscheduled or Temporary Locations.
\$2,500,000	Scheduled Vacant Property.
\$10,000,000	Errors and Omissions.



\$5,000,000	Per occurrence and in the annual aggregate inclusive of resultant Time Element coverages as respects scheduled landscaping, tees, sand traps, greens and natural athletic fields and subject to a \$25,000 / 48-inch box maximum per item for trees and shrubs. This coverage is excluding any amount recoverable from Federal Emergency Management Agency (F.E.M.A.) and/or any State Office of Emergency Services (O.E.S.) declared disasters, providing said declaration provides funding for repairs.
\$500,000	Per occurrence <b>and</b> \$1,000,000 in the annual aggregate as respects unscheduled landscaping, tees, sand traps, greens and natural athletic fields and subject to a \$25,000 / 48-inch box maximum per item for trees and shrubs. This coverage is excluding any amount recoverable from Federal Emergency Management Agency (FEMA) and/or any State Office of Emergency Services (O.E.S.) declared disasters, providing said declaration provides funding for repairs.
\$1,000,000	Per occurrence as respects unscheduled tunnels, bridges, dams, catwalks (except those not for public use), roadways, highways, streets, sidewalks, (and related appurtenances to these) culverts, street lights and traffic signals.
\$25,000,000	Tax Revenue Interruption Protection per occurrence for scheduled property.
\$500,000	Animals.
\$250,000	Per occurrence and in the annual aggregate as respects Rewards.
\$250,000	Newly Acquired Fine Arts per Covered Member.

**F. COVERAGE PART B – TERRORISM**

**1. LIMITS OF LIABILITY**

\$100,000,000	Per occurrence and in the annual aggregate as respects Acts of Terrorism and Sabotage.
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**2. SUBLIMITS OF LIABILITY**

\$25,000,000	Off-Premises Services Business Interruption.
\$25,000,000	Contingent Time Element and coverage in respect of Direct Customers and Suppliers only.
\$10,000,000	Worldwide Transit.

## **COVERAGE PART A**

### **SECTION I – COVERAGE AGREEMENT**

In consideration of the annual contribution charged to the Covered Member by the Authority, the Authority agrees to provide coverage to the Covered Member per the terms and conditions of this MOC - P.

#### **A. NAME OF COVERED PARTIES**

The California Joint Powers Insurance Authority and its Member Agencies that participate in its Property Program as held on file with the Authority. Further, any entities or individuals for whom a Covered Member is required to provide coverage as their interests may appear and other organizations and enterprises which now exist or which hereafter may be created or acquired and which are owned, financially controlled or actively managed by a Covered Member, all jointly, severally or in any combination of their interests, for account of whom it may concern.

Lessors and other party(ies) of interest in all property of every description covered hereunder are included herein as additional insureds for their respective rights and interests, it being understood that the inclusion hereunder of more than one covered party shall not serve to increase the Authority's limit of liability.

Mortgagees to whom certificates of insurance or evidence of coverage have been issued are covered hereunder in accordance with the terms and conditions of Form 438 BFU NS, CP12 18 1091, or its equivalent.

Loss, if any, shall be adjusted with the Covered Member and payable to the covered parties as their respective interests may appear, subject however, to the provisions of any mortgagees or loss payee clauses which may otherwise be herein provided or endorsed hereon.

It is agreed to include automatically under this MOC - P the interest of Additional Covered Party(ies), and/or mortgagees and/or loss payees where applicable without advice.

#### **B. OPTIONAL COVERAGE PARTICIPATION**

It is understood and agreed that certain Covered Members purchase coverage that is optional under this MOC - P. The selection of such optional coverage by a Covered Member is as held on file with the Authority and or the insurance broker.

#### **C. DEDUCTIBLES**

##### **1. "ALL RISK"**

\$ 10,000 per occurrence, all perils and property including fire and ambulance vehicles and vehicles on the premises and boats, **except** as indicated by peril or type of property below:

- a. \$2,500 per occurrence, radio and telephone equipment in vehicles
- b. \$2,500 per occurrence, auto physical damage – comprehensive
- c. \$2,500 per occurrence, auto physical damage – collision
- d. \$2,500 per occurrence, sea doos.
- e. \$250,000 per occurrence, unscheduled tunnels, bridges, dams, catwalks (except those not for public use), roadways, highways, streets, sidewalks, culverts, street lights and traffic signals
- f. \$100,000 per occurrence, unscheduled property, unless vacant in which case there is no coverage
- g. \$500,000 per occurrence for vacant scheduled buildings

**2.FLOOD:**

\$ 100,000 per occurrence except \$ 250,000 per occurrence, per Covered Member in respect of locations situated wholly or partially within a Special Flood Hazard Area (SFHA), areas as defined by the Federal Emergency Management Agency (FEMA). SFHA is defined as the area that will be inundated by the flood event having a 1 percent chance of being equaled or exceed in any given year. For unscheduled property, whether vacant or not, the Flood deductible shall be the greater of the Flood deductible as stated in this paragraph, or the applicable "All Risk" deductible from item C.1 of this Section.

**3.FLOOD IN RESPECT OF PIERS:**

\$ 500,000 per occurrence, per pier.

**4. EARTHQUAKE SHOCK:**

This coverage will not pay for loss or damage caused by "earthquake shock" until the amount of loss or damage exceeds 5% per unit of coverage subject to a minimum deductible of \$ 100,000 per occurrence. The deductible applies separately to each Covered Member and to each "earthquake shock" occurrence. This coverage will then pay the amount of loss or damage in excess of the deductible, up to the applicable limits of coverage for "earthquake shock" at each premises. "Total values" mean the 100% value of buildings, personal property and Time Element coverage provided (using the applicable MOC - P valuation clause), without regard to the limit of coverage.

**5.DEDUCTIBLE PROVISIONS**

- A) If two or more deductible amounts provided above apply for a single 'occurrence', the total to be deducted shall not exceed the largest per 'occurrence' deductible amount applicable.
- B) When two deductibles are involved, the amount of loss in excess of the higher deductible will be considered as the common loss.

**D. UNIT OF COVERAGE DEFINED**

In the application of the Earthquake Shock Deductible Clause and made a part of this coverage, each of the following shall be considered a Separate Unit of Coverage

- (a) Each Separate Building or Structure
- (b) The Contents of each separate Building or Structure
- (c) All insured Property in the open
- (d) Applicable Time Element Coverage of each separate Building or Structure

The Authority shall not be liable for loss to any Unit of Coverage covered hereunder unless such loss exceeds the percentages stated in this MOC - P of the replacement values of such Unit of Coverage at the time when such loss shall happen, and then only for its proportion of such excess.

## **SECTION II – PHYSICAL DAMAGE TO PROPERTY**

### **A. COVERAGE**

Subject to the terms, conditions and exclusions hereinafter contained, this MOC - P covers all property of every description of an coverable nature (as defined by the MOC- P), both real (including vehicles) and personal (including improvements and betterments), of the Covered Member or property of others in the care, custody or control of the Covered Member, for which the Covered Member is liable or under obligation to keep covered, located at an Covered Location or within 1,000 feet thereof, to the extent of the interest of the Covered Member in such property.

### **B. EXTENSIONS OF COVERAGE**

The following Extensions of Coverage do not act to increase the liability of the Authority for any amount greater than stated in the Program Limits of Liability shown in the Declarations attached to this MOC - P.

#### **1. PROPERTY IN COURSE OF CONSTRUCTION**

It is understood and agreed that as respects course of construction and remodeling projects, this MOC - P will provide automatic coverage subject to the following conditions:

- (1) Project involves only real property additions or modifications to Covered Member locations (excluding roads, bridges, dams and levees unless specifically declared and on file with the Authority), foundations and building materials including new locations.
- (2) Values of the project are reported to the Authority in accordance with the provisions of this MOC - P regarding changes, additions or deletions.
- (3) The peril of Earthquake Shock is excluded as respects property newly constructed, erected or assembled unless specifically declared and on file with the Authority.
- (4) Additional Expense Soft Cost: This coverage applies to new buildings or structures in the course of construction up to the time that the new building (s) or structure (s) is initially occupied or put to its intended use whichever occurs first

The Authority will provide coverage for a Covered Member's additional expenses as defined below for up to 25% of the estimated completed value of the project, not to exceed the MOC - P limit, which results from a delay in the completion of the project beyond the date it would have been completed had no loss or damage occurred. The delay must be due to direct physical loss or damage to covered property and be caused by or result from a Covered Cause of Loss. The Authority will pay covered expenses when they are incurred.

- (a) Additional Interest Coverage - The Authority will pay the additional interest on money the Covered Member borrows to finance construction or repair.
- (b) Rent or Rental Value Coverage - The Authority pay the actual loss of net rental income that results from delay beyond the projected completion date. But the Authority will not pay more than the reduction in rental income less charges and expenses that do not necessarily continue.
- (c) Additional Real Estate Taxes or Other Assessments - The Authority will pay the additional real estate taxes or other assessments the Covered Member incurs for the period of time that construction is extended beyond the completion date.
- (d) Additional Advertising and Promotional Expenses - The Authority will pay the additional advertising and promotional expense that becomes necessary as a result of a delay in the completion of the project.
- (e) Additional Commissions Expense - The Authority will pay the additional expenses which result from the renegotiating of leases following an interruption in the project.
- (f) Additional Architectural and Engineering Fees - The Authority will pay the additional architectural and engineering fees that become necessary as a result of a delay in the completion of the project.
- (g) Additional License and Permit Fees - The Authority will pay the additional license and permit fees that become necessary as a delay in the completion of the project.
- (h) Legal and Accounting Fees - The Authority will pay the additional legal and accounting fees the Covered Member incurs as a result of a delay in the completion of the project.

## **2. FIRE FIGHTING EXPENSES**

It is understood and agreed that the Authority shall be liable for the actual charges of fire fighting expenses including but not limited to those charged by municipal or private fire departments, or assumed by contract prior to loss responding to and fighting fire in/on, and/or protecting property included in coverage provided by this MOC - P.

## **3. OFF PREMISES SERVICES CLAUSE**

It is understood and agreed that coverage under this MOC - P is extended to include physical damage, business interruption loss and/or extra expense incurred and/or sustained by the Covered Member as a result of damage to or destruction of, by the perils covered against, to property of the type not excluded by this MOC - P of any

suppliers furnishing heat, light, power, gas, water, telephone, steam or similar services to the Covered Member's premises.

#### **4. ARCHITECTS AND ENGINEERS FEES AND LOSS ADJUSTMENT EXPENSES**

This MOC - P also covers any of the following:

- (1) Architects' and engineers' fees.
- (2) Loss adjustment expenses including, but not limited to, auditors, consultants and accountants and excluding Public Adjusters.

#### **5. EXPEDITING EXPENSES**

It is understood and agreed that coverage under this MOC - P includes the reasonable extra cost of temporary repair and of expediting the repair of such damaged property of the Covered Member, including overtime and the extra costs of express or other rapid means of transportation.

#### **6. DEBRIS REMOVAL**

This MOC - P also covers expenses incurred in the removal of debris of the property covered hereunder that may be destroyed or damaged by a covered peril(s). This debris removal coverage does not apply to the cost to extract pollutants from land or water, or to remove, restore or replace polluted land, water or groundwater.

This agreement also covers:

The expense incurred in the removal of debris of property covered hereunder, within one thousand (1,000) feet of the Covered Member's premises, which may be occasioned by loss caused by any of the perils covered by this MOC - P. However, coverage for expense of removal of debris of property covered shall not apply to:

- (a) any discharge, release or escape of any pollutant or contamination into, under or upon the land, the atmosphere or any watercourse or body of water; or
- (b) any fines or penalties incurred or sustained by or imposed on the Covered Member at the order of any government agency, court or other governmental authority arising from any cause whatsoever in excess of \$15,000 annually aggregated as respects all covered locations.

It is a condition precedent to recovery under this extension that the Authority shall have paid or agreed to pay for direct physical loss or damage to property covered hereunder and that the Covered Member shall give written notice of intent to claim for cost of removal of debris.

## **7. BUILDING LAWS**

The loss occasioned by the enforcement of any local ordinance or state law regulating the construction, repair or demolition of buildings or structures, which is in force at the time such a loss occurs, or which becomes in force within 30 days of the loss, which necessitates the demolition of any portion of the covered building not damaged by the covered peril(s).

## **8. DEMOLITION COST**

The cost of demolishing any undamaged portion of the covered property including the cost of clearing the site thereof, caused by loss from any covered peril(s) under this MOC - P and resulting from enforcement of any local or state ordinance or law regulating the construction, repair or demolition of buildings or structures and in force at the time of loss, or which become in force within 30 days of the loss, which necessitates such demolition;

## **9. INCREASED COST OF CONSTRUCTION**

The increased cost of repair or replacement occasioned by the enforcement of any local state ordinance or law regulating the construction, repair or demolition of buildings or structures which is in force at the time such a loss occurs, or which becomes in force within 30 days of the loss, which necessitates in repairing or replacing the building covered hereunder which has suffered damage or destruction by the covered peril(s) or which has undergone demolition, limited, however, to the minimum requirements of such ordinance or law.

## **10. ERRORS AND OMISSIONS**

No unintentional errors or omissions, or failure in making reports or other data hereunder will prejudice the Covered Member's right of recovery but will be reported to the Authority as soon as practicable when discovered. It is further understood and agreed that any error in description of locations, or values of projects covered or to be covered by the MOC - P shall not invalidate or otherwise reduce coverage.

The coverage provided by this clause is sublimited per the Program Limits of Liability shown in the Declarations attached to this MOC - P.

## **11. ANIMALS**

Including police dogs, horses and other specially trained animals. Coverage includes retraining expenses.



## **12. VALUABLE PAPERS**

Valuable papers or the cost to research, replace, restore or reconstruct valuable papers lost or damaged by perils covered while inside or outside the Covered Member's premises during the term of this MOC - P.

## **13. TRANSIT**

Personal property of the Covered Member or property held by the Covered Member in trust or on commission or on consignment for which the Covered Member may be held legally liable while in due course of transit, worldwide, against "All Risks" of Direct Physical Loss or Damage to the property covered occurring during the period of coverage of this MOC - P except as otherwise excluded.

## **14. ACCIDENTAL CONTAMINATION EXTENSION**

This MOC - P is hereby extended to cover Business Interruption and Property Damage loss from accidental contamination to covered Property, as covered by this MOC - P, including expenses necessarily incurred to clean up, remove and dispose of contaminated substances so as to restore the covered property as covered by this MOC - P to the same condition as existed prior to loss, all as a result of accidental contamination, discharge or dispersal is itself caused physical damage to covered property by fire, lightning, flood, earth movement, impact from aircraft, explosion, riot, civil commotion, smoke, collapse, vehicles, windstorm, hail, vandalism, malicious mischief or leakage and accidental discharge from automatic fire protective systems whereupon this extension shall provide coverage up to \$ 1,000,000 annual aggregate for all properties combined, of liability provided by this MOC - P.

For the purposes of this extension the term "covered property" as covered by this MOC - P, is held to include land on the premises of the Covered Member, (including Land on which covered property is located), and Land Values, as part of the above stated sublimit, whether or not the same are excluded by this MOC - P. It being specifically understood and agreed that this extension shall not afford coverage to land, (including land on which covered property is located), and land Values for loss in excess of the \$ 1,000,000 annual aggregate sublimit liability stated above and shall be subject to a 180 day reporting period.

It is further understood and agreed that this extension shall not override anything contained in Asbestos Clean Up and Removal in this MOC - P.

The sublimit of liability stated above forms part of the limit(s) of liability provided by this MOC - P and does not increase it (them).

This coverage extension is specifically excess of any other valid and collectible insurance or coverage available to a Covered Member or a Covered Party.

## **15. LEASEHOLD INTEREST**

In the event of physical loss or damage of the type covered by this MOC - P to real property of the type covered by this MOC - P which is leased by the Covered Member, this MOC - P is extended to cover:

- (1) If as a result of such loss or damage the property becomes wholly untenable or unusable and the lease agreement requires continuation of the rent, the Authority shall indemnify the Covered Member for the actual rent payable for the unexpired term of the lease, or
- (2) If as a result of such loss or damage the property becomes partially untenable or unusable and the lease agreement requires continuation of the rent, the Authority shall indemnify the Covered Member for the proportion of the rent applicable thereto, or
- (3) If as a result of such loss or damage the lease is cancelled by the lessor pursuant to the lease agreement or by operation of law, the Authority shall indemnify the Covered Member for its Lease Interest for the first three months following such loss or damage and for its Net Lease Interest for the remaining unexpired term of the lease

provided, however, that the Authority shall not be liable for any increase in the amount recoverable hereunder resulting from the suspension, lapse or cancellation of any license, or from the Covered Member exercising an option to cancel the lease; or from any act or omission of the Covered Member which constitutes a default under the lease; and provided further that the Covered Member shall use any suitable property or service owned or controlled by the Covered Member or obtainable from another source to reduce the loss hereunder.

The following definitions shall apply to this coverage:

- (1) Lease Interest means the excess rent paid for the same or similar replacement property over actual rent payable plus cash bonuses or advance rent paid (including any maintenance or operating charges) for each month during the unexpired term of the Covered Member's lease.
- (2) Net Lease Interest means that sum which placed at 8% interest compounded annually would equal the Lease Interest (less any amounts otherwise payable hereunder).

## **16. BRANDS, LABELS, AND TRADEMARKS**

If the Covered Member decides to stamp salvage and/or remove brands, labels, trademarks, or information that carries or implies the Covered Member guarantee or warranty on covered property damaged by covered causes of loss, the Authority will pay expenses to perform those tasks and the relabeling of the property in compliance with the requirements of the law.

## **17. CONSEQUENTIAL DAMAGE**

When damage by covered causes of loss, without the intervention of any other independent cause, results in a sequence of events which causes physical loss or damage not otherwise excluded to other covered property, the Authority will cover the resulting physical loss or damage and the actual loss sustained under Business Interruption coverage during the time period as would be required with the exercise of due diligence and dispatch to repair or replace the damaged property.

## **18. CONSEQUENTIAL REDUCTION IN VALUE**

The Authority will pay for the reduction in value of covered components or parts of products due to damage by covered causes of loss to other components or parts of such products.

## **19. ACCIDENTAL CONTAMINATION EXTENSION**

The Authority will pay for damage by covered causes of loss to a Covered Member's Personal Property situated on the premises of any exhibition, exposition, fair or trade show.

## **20. IMPOUNDED WATER**

The Authority will pay for covered causes of loss to covered property and Business Interruption resulting from the lack of adequate water supply stored behind dams or in reservoirs on the covered property; only if the water is used as a raw material, for power or for other manufacturing purposes and the water is released from storage as a result of damage to, or destruction of the dam, reservoir, or control equipment due to covered causes of loss.

Coverage is limited to thirty (30) consecutive days after the length of time required, with the exercise of due diligence and dispatch to repair or replace the damaged or destroyed dam, reservoir or control equipment.

## **21. REWARD**

The Authority will pay a reward to any individual or group (except the Covered Member and its elected officials), for the capture of, or for information which results in the arrest and conviction, of any person(s) related to covered loss or damage to Buildings and Personal Property.

## **22. WATER BACKUP FROM SEWER OR DRAIN**

The Authority will pay for covered causes of loss to covered property from water that backs up from a sewer or drain.

### **23. REAL PROPERTY**

Definition of Real Property is extended to include paths, walks, walkways, fences, driveways, awnings, signs, canopies, and artificial athletic fields, where values are included in the Real Property values reported and on file with the Authority.

### **24. LANDSCAPING**

Including natural athletic fields, sand traps, tees and greens as sublimited per the Program Limits of Liability shown in the Declarations attached to this MOC - P. Landscaping is only covered if its position and planting was undertaken by human agency for cosmetic effect.

### **25. UNSCHEDULED OR TEMPORARY LOCATIONS**

The Authority will pay, for damage by covered causes of loss, excluding Flood and Earthquake Shock, to Property at any other location (including buildings or structures, owned, occupied or which the Covered Member is obligated to maintain coverage) located within the territorial limitations set by this MOC - P as sublimited in the Sublimits of Liability shown in the Declarations of this MOC - P. In the event of a covered loss under this provision, the Authority reserves the unconditional right to levy a retroactive premium charge for such property for up to ten prior coverage years.

## **C. PROPERTY NOT COVERED**

This MOC - P does not provide coverage for any of the following:

- (1) Watercraft unless scheduled, and under 26 feet in length.
- (2) Aircraft, except small unmanned aircraft meaning a device that is used or intended to be used for flight in the air without the possibility of direct human intervention from within or on the aircraft and weighing less than 55 pounds on takeoff, including everything that is on board or otherwise attached to the aircraft, and such coverage is provided only while not in operation.
- (3) Retaining walls unless specifically declared and on file with the Authority.
- (4) Rolling stock, unless specifically declared and on file with the Authority.
- (5) Standing timber, bodies of water, and growing crops.
- (6) Land, (including land on which covered property is located), and land values except landscaping including natural athletic fields, sand traps, tees and greens which is excluded excess of the sublimits in the Program Limits of Liability shown in the Declarations attached to this MOC - P.
- (7) Property in due course of ocean marine transit.

- (8) Shipment by mail after delivery into the custody of the United States Post Office, Federal Express, UPS, or any other paid delivery service.
- (9) Unscheduled tunnels, bridges, dams, catwalks (except those not for public use), roadways, highways, streets, sidewalks (and related appurtenances to these) culverts, streetlights and traffic signals in excess of the sublimit per the Program Limits of liability shown in the Declarations attached to the MOC - P.
- (10) Power transmission, feeder lines, and underground pipes more than 1,000 feet from a covered location (not including the line or pipe itself) the Covered Member.
- (11) As respects course of construction the following exclusions shall apply:
  - (a) The cost of making good, faulty or defective workmanship, material, construction or design, but this exclusion shall not apply to damage not otherwise excluded resulting from such faulty or defective workmanship, material, construction or design;
  - (b) The cost of non-compliance of or delay in completion of contract;
  - (c) The cost of non-compliance with contract conditions;
  - (d) Contractors' equipment or tools not a part of or destined to become a part of the installation.
- (12) The following additional exclusions apply to loss or damage to animals covered under this MOC - P:
  - (a.) Death of any animal(s) from natural causes.
  - (b.) Death of any animal(s) that dies from an unknown cause unless:
    - upon the death of such animal a post-mortem examination made of such animal by a licensed veterinarian, and if the veterinarian's post-mortem report shows the cause of death to clearly fall within the coverages of this MOC - P.
  - (c.) Death of any animal(s) as a result of surgical operation, including inoculation, unless the necessity for same arises from an event covered by this MOC - P.
  - (d.) The death or destruction of any animal(s) caused by, resulting from or made necessary by physical injury caused by or resulting from the activities of the injured animal or other animals unless such death or destruction is the result of any event otherwise covered by the MOC - P. This exclusion does not apply to the Death, destruction or injury of any covered animal while acting in the line of duty.
  - (e.) The death of any animal(s) caused directly or indirectly by the neglect or abuse of the Covered Member, his agent, employees or bailees (carriers for hire

excepted) unless such loss is a result of an event otherwise covered by this MOC - P.

- (f.) The loss by death of any animal(s) as a result of parturition or abortion.
- (g.) Loss resulting from depreciation in value caused by any animal(s) covered hereunder becoming unfit for or incapable of filling the function or duties for which it is kept, employed or intended unless such loss is the result of an event otherwise covered by this MOC - P.
- (h.) Loss by destruction of any animal(s) on the order of the federal or any state government, or otherwise as a result of having contracted or been exposed to any contagious or communicable disease.
- (i.) The removal or disposal of the remains of neither any animal(s) nor the expense thereof unless such loss is the result of an event otherwise covered by this MOC - P.
- (j.) The loss of any animal(s) that has been unnerved (the term "unnerved" to be considered as meaning the operation of neurotomy for lameness).
- (k.) Any claim consequent upon delay, deterioration, or loss of use or loss of market arising from an event covered by this MOC - P.

(13) Unscheduled Vacant property

#### **D. ASBESTOS CLEAN-UP AND REMOVAL**

- (1) This MOC - P only provides coverage for asbestos physically incorporated in a covered building or structure, and then only that part of the asbestos which has been physically damaged during the period of coverage by one of these Listed Perils:

Fire; Explosion; Earthquake Shock; Flood, Water Damage; Lightning; Windstorm; Hail; Direct impact of vehicle, aircraft or vessel; Riot or Civil Commotion; Vandalism or Malicious Mischief; or accidental discharge of fire protective equipment.

This coverage is subject to all limitations in the MOC - P and, in addition, to each of the following specific limitations:

- (i) The said building or structure must be covered under this MOC - P for damage by that Listed Peril.
- (ii) The Listed peril must be the immediate, sole cause of the damage to the asbestos.
- (iii) The Covered Member must report to the Authority the existence and cost of the damage as soon as practicable after the Listed Peril first damaged the asbestos. However, this MOC - P does not cover any such damage first reported to the

Authority more than 12 (twelve) months after the expiration, or termination, of the MOC - P.

(iv) Coverage under this MOC - P in respect of asbestos shall not include any sum relating to:

(a) Any faults in the design, manufacture or installation of the asbestos.

(b) Asbestos not physically damaged by the Listed Peril including any governmental or regulatory authority direction or request of whatsoever nature relating to undamaged asbestos.

(2) Except as set forth in the foregoing Section 1, this MOC - P does not provide coverage for asbestos or any sum relating thereto.

#### **E. LOSS PAYMENT BASIS/VALUATION**

In case of loss to property of a Covered Member covered hereunder, the basis of adjustment shall be as of the time and place of loss as follows:

(A) On all real and personal property, including property of others at the replacement value, that is replacement with materials of like kind and quality, at the time of the loss without deduction for depreciation. If property is not replaced within a reasonable period of time but no longer than 5 years from the date final payment is received by the member, then the actual cash value shall apply. However, on vacant property, the following valuation provisions shall apply:

1. On premises defined as vacant herein for a period in excess of 60 days and reported to the Authority, then actual cash value shall apply.

2. On premises defined as vacant herein for a period in excess of 60 days and not reported to the Authority, the maximum the Authority will pay will be the actual cash value less a further 25% of actual cash value

(B) On improvements and betterments at the replacement value at time of loss without deduction for depreciation. If property is not repaired or replaced within a reasonable period of time, then the actual cash value shall apply. If replaced or repaired by others for the use of the Covered Member, there shall be no liability hereunder. The Authority agrees to accept and consider the Covered Member as sole and unconditional owner of all improvements and betterments, any contract or lease the Covered Member may have made to the contrary notwithstanding.

(C) On manuscripts, mechanical drawings, patterns, books of accounting and other valuable papers, the full replacement cost of the property at the time of loss (including expenses incurred to recreate the information lost, damaged or destroyed) or what it would then cost to repair, replace or reconstruct the property with other of like kind and quality. If not repaired, replaced or reconstructed within a reasonable period of time, then not to exceed the cost of blank or unexposed material.

- (D) On antique, restored or historical buildings, the cost of acquisition, relocation to the site and renovation, restoration, reproduction or reconstruction. In the event of a partial loss, replacement cost for antique, restored or historical buildings shall mean the cost of repairing, replacing, constructing or reconstructing (whichever is less) the property on the same site using materials of like kind and quality necessary to preserve or maintain a buildings' historical significance without deduction for depreciation.
- (E) On property of others for which the Covered Member is liable under written contract, written lease, or written agreement the Authority' liability in the event of loss is limited to the Covered Member's obligation as defined in said written contract or written lease agreement.
- (F) Recovery for loss or damage to covered vehicles and contractors equipment/unlicensed vehicles on or off premises, the Authority shall not be liable for more than the cost to repair or replace the same with material of like kind and quality, except when the repair costs exceed the market value of the vehicle (as established by a current valuation from "Kelly Blue Book"), in which case the Scheduled Limit shall apply.
- (G) Animals: The stated value as per schedule on file with the Authority or insurance broker.
- (H) The valuation of library contents is based on the raw costs of each category of books as established by an Authority and Covered Member agreed upon library association at time of loss. These figures do not include the "shelving cost" of each book as the Authority recognize that not all books will be replaced. The coverage for shelving is a "valuable papers" exposure i.e. and covered elsewhere in this MOC - P.

Therefore, the formula for adjusting a library loss is:

Number of items in a category multiplied by agreed upon valuation figure plus shelving cost under "valuable papers" coverage if item is replaced.

The intention for such a formula is to eliminate the need to adjust library items on its specific actual cash value or replacement cost.

- (I) Landscaping, sand traps, tees, putting greens and natural athletic fields; the actual replacement cost of sod, shrubs, plants and trees; however the Authority's liability for replacement of trees, plants and shrubs will be limited to actual size of the destroyed plant, tree or shrub at the time of the loss up to a maximum size of a 48 inch box per item but not to exceed \$25,000 per item for trees and shrubs and further limited as stated in the Limits of Liability shown in the Declarations of Coverage.

### **Definitions As Respects Loss Payment Basis/Valuation**

Wherever the term "actual cash value" is used as respects real property or improvements and betterments in this clause, it shall mean replacement value less physical depreciation.



The aforementioned valuations shall also be used for the purpose of the assessment adjustment clause of this MOC - P.

Replacement Cost shall mean the cost of repairing, replacing, constructing or reconstructing (whichever is the least) the property on the same site, using new materials of like kind and quality and for like occupancy without deduction for depreciation, subject to the following:

- (i) Until the property is actually repaired, replaced or reconstructed, the maximum amount recoverable shall be the actual cash value of the lost or damaged property;
- (ii) Replacement shall be effective by the Covered Member with due diligence and dispatch;
- (iii) Replacement need not be on same site, or of same or similar construction or occupancy provided that the Authority shall not be liable for any additional costs that are directly attributable to the inclusion of this provision.
- (iv) For historical buildings as more specifically defined in this Section.
- (v) In no event shall the Authority's liability exceed the amount actually and necessarily expended in repairing or replacing (whichever is less) covered property or any part thereof.

It is understood and agreed that as respects replacement cost, the Covered Member shall have the option of replacement with electrical and mechanical equipment having technological advantages and/or representing an improvement in function and/or forming part of a program of system enhancement provided that such replacement can be accomplished without increasing the Authority's liability. The Authority shall be allowed to dispose of, as salvage, any non-proprietary property deemed unusable by the Covered Member.

## **F. AUTOMATIC COVERAGE/REPORTING CONDITIONS**

It is understood and agreed that:

- (1) The Authority may add/delete named Covered Members to coverage herein provided.
- (2) Covered Members at the inception of the Period of Coverage

As respects Covered Members covered at the inception of the Period of Coverage, this MOC - P is automatically extended to cover all additional property as described in this MOC - P and associated Business Interruption / Extra Expense which may be purchased, leased, acquired or otherwise become at the risk of existing Covered Members during the term of this MOC - P; subject to the sublimit covered in Program Limits of Liability shown in the Declarations attached to this MOC - P.

Earthquake Shock is excluded from this provision

(3) New Covered Members added after the inception of the Period of Coverage

As respects new Covered Members added after the inception of the Period of Coverage, this MOC - P is automatically extended to cover all additional property as described in this MOC - P and associated Business Interruption / Extra Expense which may be purchased, leased, acquired or otherwise become at the risk of new Covered Members during the term of this MOC - P; subject to such increase in values being reported to this carrier within sixty (60) days of acquisition, and subject to the sublimit in Program Limits of Liability shown in the Declarations attached to this MOC - P.

Earthquake Shock is excluded from this provision

(4) Piers, Docks, Wharves and Dams

As respects existing Covered Members and new Covered Members, this MOC - P is automatically extended to cover all additional piers, docks, wharves and dams and associated Business Interruption / Extra Expense which may be purchased, leased, acquired or otherwise become at the risk of existing Covered Members and new Covered Members during the term of this MOC - P; subject to such increase in values being reported to this carrier within sixty (60) days of acquisition; and subject to the sublimit in Program Limits of Liability shown in the Declarations attached to this MOC - P.

Earthquake Shock is excluded from this provision

(5) It is understood and agreed as respects Earthquake Shock:

- a) As respects existing Covered Members, this MOC - P is automatically extended to cover Earthquake Shock for all additional property as described in this MOC - P and associated Business Interruption / Extra Expense which may be purchased, leased, acquired or otherwise become at the risk of existing Covered Members during the term of this MOC - P; subject to such increase in values being reported to this carrier within sixty (60) days of acquisition, and subject to the sublimit in Program Limits of Liability shown in the Declarations attached to this MOC - P.
- b) As respects new Covered Members added after the inception of the period of coverage automatic coverage applies for the peril of Earthquake Shock for a period of 30 days from date of contractual requirement by any bond, certificate of participation or any similar investment, for any new locations where there is such a contractual requirement to provide Earthquake Shock coverage.

(6) Course of Construction

Projects for both new and existing Covered Members, including new projects at new locations, are automatically covered hereon for All Risks coverage excluding Flood and Earthquake Shock, subject to the applicable rate.

As respects existing Covered Members this MOC - P is automatically extended to cover Earthquake Shock and Flood for property in the course of construction at the applicable rate, subject to such projects being reported to the Authority within sixty (60) days of attachment.

If new Covered Members require Earthquake Shock and Flood coverage, projects must be declared and agreed to by the Authority prior to attachment.

(7) The Authority shall automatically cover such property and/or properties, subject to all the terms and conditions of the MOC - P to which this clause is attached; provided, however, that if there shall be any other insurance contract covering such additional property this MOC - P shall not attach or provide coverage thereon until liability of all such other coverage shall have first been exhausted and shall then attach and cover only for its proportion of the excess of loss, if any, over and above the amount due from such other coverage, whether valid or invalid or by solvent or insolvent insurers.

(8) Any additional or return premium declared under this clause shall be computed as follows:

All additions or deletions to schedules will be done at anniversary date, on an ensuing year basis. No additional or return premium will be required for additions or deletions during the period of coverage except:

(a) New Covered Members/Covered Members Deletions:

The reporting of new/deleted named Covered Members to the Authority and the applicable additional or return premium will be provided to/from the Authority based on the date of addition/or deletion of the Covered Member.

(b) Earthquake Shock:

There is no automatic coverage for Earthquake Shock except as provided in Paragraph 5 and 6 above. In the event of any increase of the total insured values as respects Earthquake Shock, as agreed by the Authority, the premium shall be charged from the date of change at rates to be agreed. In the event of any decrease of the total insured values as respects Earthquake Shock, premium will be returned from the date of change at the applicable rate.

## **G. DEFINITIONS**

### **1) OCCURRENCE**

The term occurrence shall mean any one loss, disaster, casualty or series of losses, disasters or casualties, arising out of one event. When the term applies to occurrence(s) from windstorm, flood, and/or earthquake shock, the following provisions shall apply:

#### **(A) WINDSTORM**

Each loss by windstorm shall constitute a single claim hereunder; provided, if more than one windstorm shall occur within any period of one hundred and sixty-eight (168) hours during the term of this MOC - P, such windstorm shall be deemed to be a single windstorm within the meaning thereof. The Covered Member may elect the moment from which each of the aforesaid periods of one hundred and sixty-eight (168) hours shall be deemed to have commenced but no two such one hundred and sixty-eight (168)

hour periods shall overlap. The Authority shall not be liable for any loss occurring before the effective date and time of the MOC - P. The Authority will be liable for any losses occurring for a period of up to one hundred and sixty-eight (168) hours after the expiration of this MOC - P provided that the first windstorm loss or damage within that one hundred and sixty-eight (168) hours occurs prior to the date and time of expiration of this MOC - P.

In the event of there being a difference of opinion between the Covered Member and the Authority as to whether or not all windstorm losses sustained by the Covered Member during an elected period of one hundred and sixty-eight (168) hours arose out of, or was caused by a single atmospheric disturbance, the stated opinion of the United States Weather Bureau or comparable authority in any other country or locality shall govern as to whether or not a single atmospheric disturbance continued throughout the period at the location(s) involved.

#### (B)FLOOD

Each loss by flood shall constitute a single loss hereunder.

- (a) If any flood occurs within a period of the continued rising or overflow of any river(s) or stream(s) and the subsidence of same within the banks of such river(s) or stream(s); or
- (b) If any flood results from any tsunami, tidal wave or series of tidal waves caused by any one disturbance such flood shall be deemed to be a single occurrence within the meaning of this MOC - P.

Should any time period referred to above extend beyond the expiration date of this MOC - P and commence prior to expiration, the Authority shall pay all such flood losses occurring during such period as if such period fell entirely within the term of this MOC - P.

The Authority shall not be liable, however, for any loss caused by any flood occurring before the effective date and time of this MOC - P or commencing after the expiration date and time of this MOC - P.

Flood shall mean a general condition of partial or complete inundation of normally dry land area from:

- i. overflow of inland or tidal water
- ii. unusual and rapid accumulation or run off of surface waters from any source.

Flood shall also mean mudslide or mudflow, which is a river or flow of liquid mud caused by flooding as defined in (a) or (b) above.

The definition of flood does not include ensuing loss or damage CAUSED BY FIRE, EXPLOSION OR SPRINKLER LEAKAGE.

### (C) EARTHQUAKE SHOCK

With respect to the peril of earthquake shock, any and all losses from this cause within a one hundred sixty-eight (168) hour period shall be deemed to be one loss. The Covered Member may elect the moment from which each of the aforesaid periods of one hundred sixty eight (168) hours shall be deemed to have commenced but no two such one hundred sixty eight (168) hour periods shall overlap.

The Authority shall not be liable for any loss caused by an earthquake shock occurring before the effective date and time of this MOC - P. The Authority will be liable for any losses occurring for a period of up to one hundred sixty eight (168) hours after the expiration of this MOC - P provided that the first earthquake shock loss or damage within that one hundred sixty eight (168) hours occurs prior to the date and time of the expiration of this MOC - P.

In the event of there being a difference of opinion between the Covered Member and the Authority as to whether or not all earthquake shock losses sustained by the Covered Member during an elected period of one hundred sixty eight (168) hours arose out of, or were caused by a single earthquake shock, the stated opinion of the National Earthquake Shock Information Service of the United States Department of the Interior or comparable Authority in any other country or locality shall govern as to whether or not a single earthquake shock continued throughout the period at the locations involved.

The term earthquake shock is defined as: earth movement, landslide, subsidence, earth sinking, rising or shifting, including collapse, cracking, or shifting of buildings, structures or their parts, caused by a shaking or trembling of the earth that is tectonic in origin. The definition of earthquake shock does not include ensuing loss CAUSED BY FIRE, EXPLOSION SPRINKLER LEAKAGE or FLOOD. Further Earthquake Sprinkler Leakage is covered outside of the- "Earthquake Shock" definition and subject to the basic peril deductible.

### 2) PERSONAL PROPERTY OF OTHERS

Means any property (other than real property) belonging to others who are not employees, volunteers or elected or appointed officials for which a Covered Member has assumed liability in a written agreement. This includes but is not limited to:

- Articles of Clothing
- Jewelry
- Sound Equipment
- Fine Arts (up to the sub-limit of unscheduled fine arts)
- EDP Media and Hardware
- Valuable Papers
- Portable Electronic Equipment

### 3) IMPROVEMENTS AND BETTERMENTS

Means additions or changes made by a Covered Member/lessee at their own expense to a building they are occupying that enhance the building's value.

#### 4) SCHEDULED VALUES

As used in the MOC – P, Scheduled Values, shall mean specifically declared values for such items/assets have been reported as part of the Covered Member's schedule of values held on file with the Authority or insurance broker.

### **SECTION III - BUSINESS INTERRUPTION**

Subject to the terms, conditions and exclusions stated elsewhere herein, this MOC - P provides coverage for:

#### **A. COVERAGE**

##### **1. BUSINESS INTERRUPTION**

Against loss resulting directly from interruption of business, services or rental value caused by direct physical loss or damage, resulting from a covered peril to real and/or personal property covered hereunder, occurring during the term of this MOC - P.

In the event of such loss or damage the Authority shall be liable for the actual loss sustained by the Covered Member for gross earnings as defined herein and rental value, tax interruption and tuition income as defined herein resulting from such interruption of business, services, or rental value; less all charges and expenses which do not necessarily continue during interruption of business for only such length of time as would be required with the exercise of due diligence and dispatch to rebuild, repair or replace such part of the property as has been damaged or destroyed, commencing with the date of such damage or destruction and not limited by the date of expiration of this MOC - P (hereinafter referred to as the period of restoration). Due consideration shall be given to the continuation of normal charges and expenses including payroll expenses to the extent necessary to resume operations of the Covered Member with the same quality of service which existed immediately preceding the loss.

##### **2. EXTRA EXPENSE**

This MOC - P is extended to cover the necessary and reasonable extra expenses as hereinafter defined, incurred by the Covered Member in order to continue as nearly as practicable the normal operation of the Covered Member's business following damage to or destruction by a covered peril of real or personal property which is owned, leased or occupied by the Covered Member. In the event of such damage or destruction, the Authority shall be liable for such necessary extra expense incurred for only such length of time as would be required with the exercise of due diligence and dispatch to rebuild, repair or replace such part of the property as has been damaged or destroyed commencing with the date of damage or destruction and not limited by the date of expiration of this MOC - P (hereinafter referred to as the period of restoration).

#### **B. EXTENSIONS OF COVERAGE**

##### **1. INGRESS/EGRESS**

This MOC - P is extended to insure the actual loss sustained during the period of time not exceeding sixty (60) consecutive days when, as a direct result of physical damage by a covered peril(s) by this MOC - P to property of a type covered hereunder occurring within ten (10) statute miles of a covered location, ingress to or egress from property covered by this MOC - P is prevented.

Coverage under this extension is subject to a 24-hour waiting period.

## **2. INTERRUPTION BY CIVIL AUTHORITY**

This MOC - P is extended to include the actual loss sustained by the Covered Member, as covered hereunder, during the length of time not exceeding sixty (60) consecutive days when, as a direct result of physical damage to or destruction of property of the type covered hereunder by the covered peril(s), occurring within ten (10) statute miles of a covered location, access to such described premises is specifically prohibited by order of any civil authority.

Coverage under this extension is subject to a 24-hour waiting period.

## **3. DEMOLITION AND INCREASED TIME TO REBUILD**

The Authority shall, in the case of loss covered under this MOC - P, be liable also for loss to the interest covered by the MOC - P, occasioned by the enforcement of any local or state ordinance or law regulating the construction, repair or demolition of buildings or structures and in force at the time such loss occurs or which becomes in force within 30 days of the loss, which necessitates the demolition of any portion of the described building(s) not damaged by the covered peril(s). The Authority shall also be liable for loss due to the additional period of time required for repair or reconstruction in conformity with the minimum standards of such ordinance or law of the building(s) described in this MOC - P damaged by a covered peril.

THE AUTHORITY SHALL NOT BE LIABLE UNDER THIS CLAUSE FOR:

- A) More than the limit(s) of liability as shown elsewhere in this MOC - P.
- B) Any greater proportion of any loss to the interest covered by this MOC - P than the amount covered under this MOC - P on said interest bears to the total insurance and coverage on said interest, whether all such insurance contains this clause or not.

## **4. NON-PRODUCTIVE PROPERTY**

If the Real and/or Personal Property sustaining loss or damage does not produce an income the actual loss sustained shall be the continuing fixed charges and expenses directly attributable to such non-productive property.

## **5. CONTINGENT BUSINESS INTERRUPTION AND/OR EXTRA EXPENSE AND/OR RENTAL VALUE**

Business interruption, extra expense, rental value coverage provided by this MOC - P is extended to cover loss directly resulting from physical damage covered under this MOC - P to property of the type not otherwise excluded by this MOC - P at direct supplier or direct customer locations (whether such location is owned by a Covered Member or not) that prevents a supplier of goods and/or services to the Covered Member from supplying such goods and/or services, or that prevents a



recipient of goods and/or services from the Covered Member from accepting such goods and/or services.

## **6. TAX REVENUE INTERRUPTION PROTECTION**

- 1) Type of revenue to be covered: Sales Tax, Property Tax, Transient Occupancy Tax, Tribal Incremental Municipal Services Payments, whenever the word "Revenue" appears in this MOC - P, it shall mean only such revenue as specified.
- 2) Revenue Interruption Protection is only provided if the Covered Member has scheduled Revenue Interruption values for which premium has been charged for the relevant perils covered hereunder. Further coverage is limited to any amount listed in the sublimits section of the Declarations.
- 3) Except as hereinafter or heretofore excluded, this MOC - P covers only against loss resulting directly from necessary interruption of revenue as specified above collected by or due to the Covered Member caused by damage to or destruction of property which is not operated by the Covered Member against all risks of direct physical loss or damage during the term of this MOC - P, which wholly or partially prevents the generation of revenue for the account of the Covered Member (referred to as 'contributing properties').
- 4) In the event of such damage or destruction, coverage shall be for the actual loss sustained by the Covered Member from direct damage by perils covered hereunder to one or more contributing properties which results in the interruption of revenue for only the length of time as would be required with exercise of due diligence and dispatch to rebuild, replace or repair the contributing property commencing with the date of damage to the contributing property, but not limited by the expiration date of this MOC - P.

Such loss recovery after deductible shall be limited to whichever is the least of:

1. The limit covered on the MOC - P
  2. The actual loss sustained
  3. The difference in amount between 97.5% of the anticipated revenue and the actual total revenue after the loss.
- 5) Deductible: Each loss or series of losses arising out of one event at each location shall be adjusted separately and from the aggregate amount of all such losses 2.5% of the annual revenue value shall be deducted.

## **7. EXTENDED PERIOD OF INDEMNITY**

Subject to the terms, conditions and exclusions of the MOC - P to which this extension is attached, the business interruption, tax interruption and tuition income and/or extra expense and/or rental value coverage provided by this MOC - P is extended to provide

coverage for the additional length of time required to restore the business of the Covered Member to the condition that would have existed had no loss occurred commencing on either

- (1) the date on which the Authority's liability would otherwise terminate or
- (2) the date on which rebuilding, repairing or replacement of such property as has been lost, damaged or destroyed is actually completed, whichever is later.

The Authority's liability under this extension shall terminate no later than twelve (12) months from the commencement date set forth above.

### **C. EXCLUSION**

The Authority shall not be liable for any increase of loss which may be occasioned by the suspension, lapse, or cancellation of any lease or license, contract or order, unless such suspension, lapse, or cancellation results directly from the interruption of business and, then the Authority shall only be liable for such loss as affects the Covered Member's earnings during and limited to, the period of indemnity covered under this MOC - P.

### **D. LOSS PAYMENT VALUATION EXPENSES TO REDUCE LOSS**

This MOC - P also covers such expenses as are necessarily incurred for the purpose of reducing loss under this section (except incurred to extinguish a fire); but in no event to exceed the amount by which loss is thereby reduced.

### **E. SPECIAL CONDITION APPLICABLE**

If the Covered Member could reduce the loss resulting from the interruption of business:

- (1) by complete or partial resumption of operation of the property whether or not such property be lost or damaged, or
- (2) by making use of merchandise or other property at a Covered Member's location or elsewhere

Such reduction shall be taken into account in arriving at the amount of the loss hereunder.

### **F. DEFINITIONS**

#### **1. GROSS EARNINGS**

"Gross Earnings" is defined as the sum of:

- (1) total net sales and
- (2) other earnings derived from the operation of the business

less the cost of

- (3) merchandise sold including packaging materials and
- (4) materials and supplies consumed directly in supplying the service(s) sold by the Covered Member, and
- (5) service(s) purchased from outside (not employees of the Covered Member) for resale that does not continue under contract.

No other cost shall be deducted in determining gross earnings.

In determining gross earnings, due consideration shall be given to the experience of the business before the date of loss or damage and the probable experience thereafter, had no loss occurred.

## **2. MERCHANDISE**

Shall be understood to mean goods kept for sale by the Covered Member that are not the products of manufacturing operations conducted by the Covered Member.

## **3. EXTRA EXPENSE**

The term "extra expense", whenever used in this MOC - P, is defined as the excess (if any) of the total cost incurred during the period of restoration chargeable to the operation of the Covered Member's business over and above the total cost that would normally have been incurred to conduct the business during the same period had no damage or destruction occurred. Any salvage value of property obtained for temporary use during the period of restoration, which remains after the resumption of normal operations, shall be taken into consideration in the adjustment of any loss hereunder.

## **4. RENTAL VALUE**

The term "rental value" is defined as the sum of:

- (1) the total anticipated gross rental income from tenant occupancy, and
- (2) the amount of all charges which are the legal obligation of the tenant(s) and which would otherwise be obligations of the Covered Member, and
- (3) The fair rental value of any portion of said property which is occupied by the Covered Member, and
- (4) Any amount in excess of (1), (2), and (3) (above) which is an obligation due under the terms and conditions of any revenue bond, certificate of participation or other financial instrument.

In determining rental value, due consideration shall be given to the experience before the date of loss or damage and the probable experience thereafter had no loss occurred.

## **G. PERIOD OF RESTORATION**

The period during which business interruption and /or rental interruption and/or extra expense applies will begin on the date direct physical loss occurs and interrupts normal business operations and ends on the date that the level of income prior to the loss is restored (normal operations) with due diligence and dispatch.

## SECTION IV - GENERAL CONDITIONS

### Applicable to all Sections under Coverage Part A

#### A. PERILS COVERED

Subject to the terms, conditions and exclusions stated elsewhere herein, this MOC - P provides coverage against all risk of direct physical loss or damage occurring during the period of coverage of this MOC - P.

#### B. PERILS EXCLUDED

This MOC - P does not cover any of the following:

- A) Loss or damage caused by or resulting from moths, vermin, termites, or other insects, inherent vice, latent defect, wear, tear or gradual deterioration, contamination, rust, wet or dry rot, unless physical damage by a peril not otherwise excluded ensues and then only for such ensuing loss, or loss or damage by normal settling, shrinkage or expansion in building or foundation.
- B) Earthquake shock, except when coverage is purchased and property is scheduled for the peril of earthquake shock.
- C) Delay or loss of markets (this exclusion shall be inapplicable to the extent inconsistent with any time element coverage provided elsewhere herein).
- D) Unless otherwise endorsed, herein, breakdown or derangement of machinery and/or steam boiler explosion, unless physical loss not otherwise excluded herein ensues and then only for such ensuing loss. (This exclusion is applicable only to boilers owned or controlled by the Covered Member.) This exclusion does not apply to data processing equipment or media.
- E) Loss or damage caused by or resulting from misappropriation, conversion, inventory shortage, unexplained disappearance, infidelity or any dishonest act on the part of the Covered Member, its employees or agents or others to whom the property may be entrusted (bailees and carriers for hire excepted) or other party of interest.
- F) Loss or damage caused by or resulting from electrical injury or disturbance from artificial causes to electrical appliances, devices of any kind or wiring, unless physical loss or damage not otherwise excluded herein ensues and then only for such ensuing loss. This exclusion does not apply to data processing equipment or media.
- G) Loss or damage to personal property resulting from shrinkage, evaporation, loss of weight, leakage, breakage of fragile articles, marring, scratching, exposure to light or change in color, texture or flavor, unless such loss is caused directly by fire or the combating thereof, lightning, windstorm, hail, explosion, strike, riot, or civil commotion, aircraft, vehicles, breakage of pipes or apparatus, sprinkler leakage, vandalism and malicious mischief, theft, attempted theft, flood or earthquake shock (earthquake shock shall apply to all locations that are scheduled for earthquake shock.).

- H) Loss or shortage disclosed upon taking inventory or mysterious disappearance of property (except property in the custody of carriers or bailees for hire).
- I) Loss caused directly or indirectly by:
  - (1) War, hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack
    - (a) by any government or sovereign power (de jure or de facto) or by any Authority maintaining or using military, naval or air forces; or
    - (b) by military, naval or air forces; or
    - (c) by an agent of any such government, power, authority or forces
  - (2) any weapon of war employing atomic fission or radioactive force whether in time of peace or war
  - (3) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority or hindering, combating or defending against such an occurrence, seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade.
- J) Loss by nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the covered peril(s) in this MOC - P; however, subject to the foregoing and all provisions of this MOC - P, direct loss by fire resulting from nuclear reaction or nuclear radiation or radioactive contamination is covered by this MOC - P.
- K) This MOC - P does not provide coverage for the following, but, if physical damage not excluded by this MOC - P results, then only that resulting damage is covered:
  - (1) Defective workmanship, material, construction or design from any cause
  - (2) Loss or damage to the interior portion of buildings under construction from rain, sleet or snow, whether or not driven by wind, when the installation of the roof, walls and windows of such buildings has not been completed. But damage by surface water is covered.
- L) 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.
- M) This MOC - P only covers physical loss or damage to covered property by mold, mildew or fungus when directly caused by a peril covered by this MOC - P occurring during the period of coverage.

This coverage is subject to all limitations in the MOC - P and, in addition, to each of the following specific limitations:

1. The said property must otherwise be covered under this MOC - P for physical loss or damage by that peril.
  2. The Covered Member must report to the Authority the existence and cost of the physical loss or damage by mold, mildew or fungus as soon as practicable, but no later than twelve (12) months after the peril first caused any physical loss or damage to covered property during the period of coverage. This MOC - P does not cover any physical loss or damage by mold, mildew or fungus first reported to the Authority after that twelve (12) month period.
  3. Regardless of circumstance or other MOC - P provisions, the maximum amount covered and payable under this MOC - P for all mold, mildew or fungus caused by or resulting from such peril is \$10,000 per occurrence for all parts of any claim and in total \$100,000 in the aggregate for the period of coverage. This sublimit applies to all sections or extensions of the MOC - P combined under which any claim arises or is made.
- N) Except as set forth in the foregoing Section A, this MOC - P does not cover any loss, damage, claim, cost, expense or other sum directly or indirectly arising out of or relating to:
- mold, mildew, fungus, spores or other microorganism of any type, nature, or description, including but not limited to any substance whose presence poses an actual or potential threat to human health.
- This exclusion applies regardless whether there is (i) any physical loss or damage to covered property; (ii) any covered peril or cause, whether or not contributing concurrently or in any sequence; (iii) any loss of use, occupancy, or functionality; or (iv) any action required, including but not limited to repair, replacement, removal, clean-up, abatement, disposal, relocation, or steps taken to address medical or legal concerns.

O) Terrorism Exclusion

Notwithstanding any provision to the contrary within this MOC - P or any endorsement thereto it is agreed that this MOC - P 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 MOC - P 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 MOC - P also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism. If the Authority alleges that by reason of this exclusion, any loss, damage, cost or expense is not covered by this MOC - P the burden of proving the contrary shall be upon the Covered Member.

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

P) Loss, damage, to an unmanned aerial vehicle (aka: drone) while in operation.

### **C. TERRITORIAL LIMITS**

This MOC - P insures property within the United States of America, its territories and possessions. Personal property while in transit therein is extended to worldwide coverage.

### **D. REINSTATEMENT**

Any reduction in the amount covered hereunder due to payment of any loss or losses shall be automatically reinstated for the balance of the term of this MOC - P except as respects to those perils that are subject to annual aggregate limitation.

### **E. FREE ON BOARD (F.O.B.) SHIPMENTS**

The Authority shall be liable for the interest of the Covered Member at sole option of the Covered Member, the interest of the consignee in merchandise which has been sold by the Covered Member under terms of F.O.B. point of origin or other terms usually regarded as terminating shippers' responsibility short of point of delivery.

### **F. PROTECTION AND PRESERVATION OF PROPERTY**

This MOC - P covers:

- A) Reasonable and necessary costs incurred for actions to protect or preserve covered property; provided such actions are necessary due to actual, or to prevent immediately impending, covered physical loss or damage to such covered property.
- B) Reasonable and necessary:
  - (1) Fire department fire fighting charges imposed as a result of responding to a fire in, on or exposing the covered property;
  - (2) Costs incurred of restoring and recharging fire protection systems following an covered loss;
  - (3) Costs incurred for the water used for fighting a fire in, on or exposing the covered



property.

This additional coverage is subject to the deductible provisions that would have applied had the physical loss or damage occurred.

#### **G. BREACH OF CONDITIONS**

If any breach of a clause, condition or warranty of the MOC - P shall occur prior to a loss affected thereby under this MOC - P, such breach shall not void the MOC - P nor avail the Authority to avoid liability unless such breach shall exist at the time of such loss under this MOC - P, and be a contributing factor to the loss for which claim is presented hereunder, it being understood that such breach of clause or condition is applicable only to the property affected thereby. Notwithstanding the foregoing, if the Covered Member establishes that the breach, whether contributory or not, occurred without its knowledge or permission or beyond its control, such breach shall not prevent the Covered Member from recovering under this MOC - P.

#### **H. PERMITS AND PRIVILEGES**

Anything in the printed conditions of this MOC - P to the contrary notwithstanding, permission is hereby granted:

- A) to maintain present and increased hazards which are consistent with the current operation of the Covered Member's facilities, provided that the Authority is given notice as soon as reasonably practicable of any increase in hazard and reserves the right to alter the terms and conditions of the MOC - P accordingly.
- B) to make additions, alterations, extensions, improvements and repairs, to delete, demolish, construct and reconstruct, and also to include all materials, equipment and supplies incidental to the foregoing operations of the property covered hereunder, while in, on and/or about the premises or adjacent thereto.
- C) for such use of the premises as usual and/or incidental to the business as conducted therein and to keep and use all articles and materials usual and/or incidental to said business in such quantities as the exigencies of the business require.
- D) for premises to be or become vacant or unoccupied for up to 60 consecutive days.

The Authority further agrees that Covered Member facilities or premises may be vacant or unoccupied for more than 60 consecutive days provided that:

- (a) The same degree of fire protection and security service is maintained as existed at the time of the discontinuance of normal operations; the maximum amount the Authority will pay in respect of property damage from a covered loss to property vacant in excess of 60 consecutive days, shall be the actual cash value as outlined in E. LOSS PAYMENT BASIS/ VALUATION herein; and
- (b) That written notice is given to the Authority prior to the 60th consecutive day. In the event the Covered Member fails to comply with the foregoing, the Authority will

not pay for any loss or damage caused by any of the following even if they are perils covered:

- (i) Vandalism;
- (ii) Sprinkler leakage, unless the system has been protected against freezing;
- (iii) Building glass breakage;
- (iv) Water damage;
- (v) Theft; or
- (vi) Attempted theft.

With respect to perils covered against other than those listed in (b) (i) through to (b) (vi) above, the maximum the Authority will pay will be the actual cash value less a further 25% of the actual cash value.

The covered building is considered vacant or unoccupied when it does not contain adequate covered property to conduct customary business operations, but this provision shall not apply to any time period when customary business operations are suspended due to circumstances that are usual to such business operations.

E) This MOC - P shall not be prejudiced by:

- 1) error in stating the name, number, street, or location of any building(s) and contents covered hereunder, or any error or omission involving the name or title of the Covered Member.
- 2) any act or neglect of the owner of the building, if the Covered Member hereunder is not the owner, or of any occupant of the within described premises other than the Covered Member, when such act or neglect is not within the control of the Covered Member named herein; or
- 3) by failure of the Covered Member to comply with any of the warranties or conditions endorsed hereon in any portion of the premises over which the Covered Member has no control.

#### **I. PROTECTIVE SAFEGUARDS**

The Covered Member shall exercise due diligence in maintaining in complete working order all protective safeguard equipment and services.

#### **J. NOTICE OF LOSS**

In the event of loss or damage covered against under this MOC - P, the Covered Member shall give, as soon as practicable but no later than two years from the date of discovery, that a loss has occurred, notice thereof to California Joint Powers Insurance Authority via its website claim reporting system.

#### **K. ARBITRATION OF VALUE**

In case the Covered Member and the Authority shall fail to agree as to the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of their selection. The appraisers shall first select a competent and disinterested umpire, and failing to agree upon such umpire, then, on request of the Covered Member or the Authority such umpire shall be selected by judge of a court of record in the state in which the property covered is located.

The appraisers shall as soon as practicable, appraise the loss stating separately the loss of each item and failing to agree, shall submit their differences only to the umpire. An award in writing so itemized, of any two appraisers when filed with the Authority shall determine the amount of loss. The party selecting him shall pay each appraiser and the expenses of appraisal and umpire shall be paid by the parties equally.

#### **L. PROOF OF LOSS**

The Covered Member shall render a signed and sworn proof of loss as soon as practical after the occurrence of a loss, stating the time, place and cause of loss, the interest of the Covered Member and of all others in the property, the value thereof and the amount of loss or damage thereto.

#### **M. SUBROGATION**

In the event of any loss payment under this MOC - P, the Authority, shall be subrogated to all the Covered Member's rights of recovery thereof against any person or organization and the Covered Member shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights.

As respects subrogation it is agreed that, after expenses incurred in subrogation are deducted, the Covered Member and the Authority shall share proportionately to the extent of their respective interests as determined by the amount of their net loss. Any amount thus found to be due to either party from the other shall be paid promptly.

This MOC - P shall not be prejudiced by agreement made by the Covered Member releasing or waiving the Covered Member's right to recovery against third parties responsible for the loss, under the following circumstances only:

- A) If made before the loss has occurred, such agreement may run in favor of any third party
- B) If made after loss has occurred, such agreement may run only in favor of a third party falling within one of the following categories at the time of loss
  - (1) a third party covered under this MOC - P, or
  - (2) a corporation, firm, or entity
    - (i) owned or controlled by the Covered Member or in which the Covered Member owns capital stock or other proprietary interest, or
    - (ii) owning or controlling the Covered Member or owning or controlling capital

stock or other proprietary interest in the Covered Member.

- C) whether made before or after loss had occurred, such agreement must release or waive the entire Right of Recovery of the named Covered Member against such Third party or
- D) a Tenant of the Named Covered Member.

#### **N. CANCELLATION**

This MOC - P may be cancelled by the Covered Member at any time by written notice or surrender of this MOC - P. This MOC - P may also be cancelled by or on behalf of the Authority by delivering to the Covered Member or by mailing to the Covered Member by registered, certified or other first class mail at the Covered Member's address as held by the Authority, written notice, not less than sixty (60) days prior to the Authority's intent to cancel. The mailing of such notice as aforesaid shall be sufficient proof and this MOC - P and shall terminate at the date and hour specified in such notice. Notwithstanding what has been stated above, however, should this MOC - P be cancelled for non-payment of premium, the Authority shall only be required to give the Covered Member ten (10) days' notice.

If coverage in total shall be cancelled by the Covered Member, the Authority shall retain the customary short rate proportion of the premium hereon.

Payment or tender of any unearned premium by the Authority shall not be condition precedent to the effectiveness of cancellation but such payment shall be made forthwith.

Cancellation shall not affect coverage on any shipment in transit on date of cancellation. Coverage will continue in full force until such property is safely delivered and accepted at place of final destination.

#### **O. ABANDONMENT**

There shall be no abandonment to the Authority of any property.

#### **P. ASSIGNMENT**

Assignment or transfer of this MOC - P shall not be valid except with the written consent of the Authority.

#### **Q. SALVAGE**

When, in connection with any loss hereunder, any salvage is received prior or subsequent to the payment of such loss, the loss shall be figured on the basis on which it would have been settled had the amount of salvage been known at the time the loss was originally determined.

## **R. OTHER INSURANCE / COVERAGE**

Permission is hereby granted to the Covered Member to carry more specific coverage with another coverage provider on any property covered under this MOC - P. This MOC - P shall not attach or come to provide coverage upon any property which at the time of loss is more specifically described and covered under any other coverage provider's form until the liability of such other coverage has first been exhausted and shall then cover only the excess of value of such property over and above the amount payable under such other coverage, whether collectible or not. This MOC - P, subject to its conditions and limitations, shall attach and come to provide coverage upon such property as respects any peril not covered by such other coverage provider's form and not otherwise excluded herein.

In the event of a loss that is covered with another coverage provider, wherein this MOC - P is excess of any amount paid by such other coverage provider shall be applied to the deductible amount stated elsewhere. Should the amount paid by such other coverage exceed these deductibles, no further deductibles shall be applied under this MOC - P.

## **S. EXCESS INSURANCE / COVERAGE**

Permission is granted to the Covered Member to maintain excess coverage over the limit of liability set forth in this MOC - P without prejudice to this MOC - P and the existence of such excess coverage, if any, shall not reduce any liability under this MOC - P. Also it is understood and agreed as respects earthquake shock or flood, that in the event of reduction or exhaustion of the aggregate limits of liability under the underlying policy(ies) by reason of loss(es) thereunder this MOC - P shall:

- (A) in the event of reduction, pay out excess of the reduced underlying limit and
- (B) in the event of exhaustion, continue in force as the underlying policy.

## **T. RIGHT TO REVIEW RECORDS FOLLOWING A COVERED LOSS**

The Covered Member as often as may be reasonably required, shall submit and so far as within their power, cause all other persons interested in the property or employees to submit to examination under oath by any person named by the Authority relative to any and all matters in connection with a claim, and produce for examination all books of account, bills, invoices and other vouchers or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by the Authority or their representatives and shall permit extracts and copies thereof to be made.

## **U. CONCEALMENT AND FRAUD**

This entire MOC - P shall be void, if whether before or after a loss, the Covered Member has willfully concealed or misrepresented any material facts or circumstance concerning this MOC - P of the subject thereof, or the interest of the Covered Member therein, or in case of any fraud or false swearing by the Covered Member relating thereto.

## **V. LIBERALIZATION**

If during the period that coverage is in force under this MOC - P, or within forty-five (45) days prior to the inception date thereof, on behalf of the Covered Member there be adopted, or filed with an approved or accepted insurance authority, all in conformity with law, any changes in the form attached to this MOC - P by which this form of MOC - P could be extended or broadened without increased assessment charge by endorsement or substitution of form, then such extended broadened MOC - P shall inure to the benefit of the Covered Member hereunder as though such endorsement or substitution of form had been made.

## **W. LOSS PAYABLE CLAUSE**

In the event of a loss occurring under this MOC - P, the loss payment will be made in favor of the Covered Member(s) submitting the claim alone, and not to the program name.

## **X. JOINT LOSS ADJUSTMENT – MECHANICAL BREAKDOWN**

In the event of damage to or destruction of property covered by this MOC - P and also covered in a Mechanical Breakdown (aka: Boiler and Machinery) policy(ies), and there is disagreement between the Authority with respect to:

- (1) Whether such damage or destruction was caused by a peril covered by this MOC - P or by an accident covered by such Mechanical Breakdown policy(ies) or
- (2) The extent of participation of this MOC - P and of such Mechanical Breakdown Insurance policy(ies) in a loss which is covered, partially or wholly, by one or all of said policies.

The Authority shall, upon written request of the Covered Member, pay to the Covered Member one-half of the amount of the loss which is in disagreement, but in no event more than the Authority would have paid if there had been no Mechanical Breakdown policy(ies) in effect, subject to the following conditions:

1. The amount of loss which is in disagreement after making provisions for any undisputed claims payable under said policy(ies) and after the amount of the loss is agreed by the Covered Member and the Authority, is limited to the minimum amount remaining payable under either the Mechanical Breakdown policy(ies) or this MOC - P.
2. The Mechanical Breakdown Insurer(s) shall simultaneously pay to the Covered Member one-half of the said amount which is in disagreement
3. The payments by the Authority hereunder and acceptance of the same by the Covered Member signify the agreement of the Authority to submit to and proceed with Arbitration within sixty (60) days of such payments.

The Arbitrators shall be three (3) in number, one of whom shall be appointed by the Mechanical Breakdown Insurer(s) and one of whom shall be appointed by the Authority hereon and the third appointed by consent of the other two, and the decision by the Arbitrators shall be binding on the Authority and that judgment upon such award may be entered in any Court of Competent Jurisdiction

4. The payments by the Authority hereunder and acceptance of the same by the Covered Member signify the agreement of the Authority to submit to and proceed with Arbitration within sixty (60) days of such payments.

#### **Y. LENDER'S LOSS PAYABLE**

1. Loss or damage, if any, under this MOC - P, shall be paid to any Lender, its successors and assigns where obligated in a written loan agreement with the Covered Member, hereinafter referred to as "the Lender", in whatever form or capacity its interests may appear and whether said interest be vested in said Lender in its individual or in its disclosed or undisclosed fiduciary or representative capacity, or otherwise, or vested in a nominee or trustee of said Lender.
2. The coverage under this MOC - P, or any rider or endorsement attached thereto, as to the interest only of the Lender, its successors and assigns, shall not be invalidated nor suspended: (a) by any error, omission, or change respecting the ownership, description, possession, or location of the subject of the coverage or the interest therein, or the title thereto; (b) by the commencement of foreclosure proceedings or the giving of notice of sale of any of the property covered by this MOC - P by virtue of any mortgage or trust deed; (c) by any breach of warranty, act, omission, neglect, or non-compliance with any of the provisions of this MOC - P, including any and all riders now or hereafter attached thereto, by the Covered Member, the borrower, mortgagor, trustor, vendee, owner, tenant, warehouseman, custodian, occupant, or by the agents of either or any of them or by the happening of any event permitted by them or either of them, or their agents, or which they failed to prevent, whether occurring before or after the attachment of this clause, or whether before or after a loss, which under the provisions of this MOC - P or of any rider or endorsement attached thereto would invalidate or suspend the coverage as to the Covered Member, excluding herefrom, however, any acts or omissions of the Lender while exercising active control and management of the property.
3. In the event of failure of the Covered Member to pay any premium or additional premium which shall be or become due under the terms of this MOC - P or on account of any change in occupancy or increase in hazard not permitted by this MOC - P, the Authority agrees to give written notice to the Lender of such non-payment of premium after sixty (60) days from and within one hundred and twenty (120) days after due date of such premium and it is a condition of the continuance of the rights of the Lender hereunder that the Lender when so notified in writing by the Authority of the failure of the Covered Member to pay such premium shall pay or cause to be paid the premium due within ten (10) days following receipt of the Authority's demand in writing therefor. If the Lender shall decline to pay said premium or additional premium, the rights of the Lender under this Lender's Loss Payable clause shall not be terminated before ten (10) days after receipt of said written notice by the Lender.

4. Whenever the Authority shall pay to the Lender any sum for loss or damage under this MOC - P and shall claim that as to the Covered Member no liability therefor exists, the Authority, at its option, may pay to the Lender the whole principal sum and interest and other indebtedness due or to become due from the Covered Member, whether secured or unsecured, (with refund of all interest not accrued), and the Authority, to the extent of such payment, shall thereupon receive a full assignment and transfer, without recourse, of the debt and all rights and securities held as collateral thereto.
5. If there be any other coverage upon the within described property, the Authority shall be liable under this MOC - P as to the Lender for the proportion of such loss or damage that the sum hereby covered bears to the entire coverage of similar character on said property under policies held by, payable to and expressly consented to by the Lender. Any Contribution Clause included in any Fallen Building Clause Waiver or any Extended Coverage Endorsement attached to this MOC - P is hereby nullified, and also any Contribution Clause in any other endorsement or rider attached to this MOC - P is hereby nullified except Contribution Clauses for the compliance with which the Covered Member has received reduction in the rate charged or has received extension of the coverage to include hazards other than fire and compliance with such Contribution Clause is made a part of the consideration for insuring such other hazards. The Lender upon the payment to it of the full amount of its claim, will subrogate the Authority (pro rata with all other insurers contributing to said payment) to all of the Lender's rights of contribution under said other coverage.
6. The Authority reserves the right to cancel this MOC - P at any time, as provided by its terms, but in such case this MOC - P shall continue in force for the benefit of the Lender for ten (10) days after written notice of such cancellation is received by the Lender and shall then cease.
7. This MOC - P shall remain in full force and effect as to the interest of the Lender for a period of ten (10) days after its expiration unless an acceptable policy in renewal thereof with loss thereunder payable to the Lender in accordance with the terms of this Lender's Loss Payable clause, shall have been issued by some insurance company and accepted by the Lender.
8. Should legal title to and beneficial ownership of any of the property covered under this MOC - P become vested in the Lender or its agents, coverage under this MOC - P shall continue for the term thereof for the benefit of the Lender but, in such event, any privileges granted by this Lender's Loss Payable clause which are not also granted the Covered Member under the terms and conditions of this MOC - P and/or under other riders or endorsements attached thereto shall not apply to the coverage hereunder as respects such property.
9. All notices herein provided to be given by the Authority to the Lender in connection with this MOC - P and this Lender's Loss Payable clause shall be mailed to or delivered to the Lender at any address as directed by the Covered Member.



## **SECTION V - FINE ARTS FLOATER**

### **A. COVERAGE**

The provisions and stipulations of this Section shall apply only to the property covered hereunder.

If any of the property covered by this Section is also covered under any other provisions of the MOC - P of which this Section is made a part, those provisions are hereby amended to exclude such property, the intent being that the coverage under this Section is the sole coverage on such property.

This MOC - P is extended to cover fine arts, which are the property of the Covered Member or the property of others in the custody or control of the Covered Member while on exhibition or otherwise within the limits of the Continental United States and Canada.

### **B. PROPERTY COVERED**

- (1) Objects of art of every kind and description, the property of the Covered Member, the property of others and property in which the Covered Member shall have a fractional ownership interest which are owned by or have been leased, loaned, rented or otherwise made available to the Covered Member. "Property" under this 'Section V – Fine Arts Floater' shall mean paintings, drawings, etchings, pictures, prints, rare books, manuscripts, rugs, tapestries, furniture, statuary, potteries, porcelains, marbles and all other bonafide works of art and other objects of rarity, historic value, cultural interest or artistic merit, which are part of the collections of the Covered Member, or in the care, custody or control of the Covered Member, and their frames, glazing and shadow boxes.
- (2) Objects of art, and property incidental thereto, the property of the Covered Member, or of others for which the Covered Member may be liable and while such property is on or away from the Covered Member's premises in accordance with the terms and conditions of this MOC - P.

### **C. "WALL TO WALL" ("NAIL TO NAIL") COVERAGE**

This MOC - P covers the Covered Member's property on a "Wall to Wall" ("Nail to Nail") basis, or domicile to domicile basis, as applicable, from the time said property is removed from its normal repository incidental to shipment until returned thereto or other point designated by the owner or owner's agent prior to return shipment, including while in transit to or from points of consolidation or deconsolidation, packing, repacking or unpacking, while at such locations during such processes or awaiting shipment.

Coverage shall terminate upon arrival of the covered property at the final destination designated by the owner or owner's agent, or upon expiration of this MOC - P whichever may occur first, except that expiration of this MOC - P shall not prejudice coverage of any risk then in transit.

## **D. EXCLUSIONS**

- A) Loss or damage occasioned by: wear and tear, gradual deterioration, insects, vermin, inherent vice or damage sustained due to and resulting from any repairing, restoration or retouching process.
- B) Loss or damage caused by or resulting from:
  - (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack:
    - (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces, or
    - (b) by military, naval or air forces, or
    - (c) by an agent of any such government, power, authority or forces
  - (2) any weapon of war employing atomic fission or radioactive force whether in time of peace or war.
  - 3) insurrection, rebellion, revolution, civil war, usurped power or action taken by governmental authority in hindering, combating or defending against such an occurrence, seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority or risks of contraband or illegal transportation or trade.
- C) Loss by nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled and whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the covered perils covered against in this Section; however, subject to the foregoing and all provisions of this Section, direct loss by fire resulting from nuclear reaction or nuclear radiation or radioactive contamination is covered against by this Section.
- D) Loss or damage caused by or resulting from infidelity or any dishonest act on the part of the Covered Member, it's employees or agents or others to whom the property may be entrusted (bailees and carriers for hire excepted) or other party of interest.

## **E. LOSS PAYMENT BASIS/VALUATION**

The valuation of each article of property covered by this MOC - P shall be determined as follows:

- (1) Property of the Covered Member shall be covered for and valued at the current fair value of each article indicated on the books and records of the Covered Member prior to loss, according to the Covered Member's valuation of each object covered.
- (2) Property of others loaned to the Covered Member and for which the Covered Member may be legally liable, or which the Covered Member has been instructed to

insure, shall be covered for and valued at the amount agreed upon for each article by the Covered Member and owner(s) as recorded on the books and records of the Covered Member prior to loss.

- (3) Otherwise, in the absence of recorded current fair market values or agreed values for each article covered, the Authority shall not be liable beyond the fair market value of the property at the time of any loss or damage occurs. Said value shall be ascertained by the Covered Member and the Authority or, if they differ, then the amount of value or loss shall be determined as provided in the following appraisal clause.

#### **F. SPECIAL CONDITIONS**

- (1) Misrepresentation and Fraud: This entire Section shall be void if, whether before or after a loss, the Covered Member has concealed or misrepresented any material fact or circumstance concerning this MOC - P or the subject thereof, or the interest of the Covered Member therein, or in case of any fraud or false swearing by the Covered Member relating thereto.
- (2) Notice of Loss: The Covered Member shall as soon as practicable report in writing to the Authority or its agent every loss, damage or occurrence which may give rise to a claim under this Section and shall also file with the Authority or its agent within sixty (60) days from the date of discovery of such loss, damage or occurrence, a detailed sworn proof of loss.
- (3) Examination under Oath: The Covered Member, as often as may be reasonably required, shall exhibit to any person designated by the Authority all that remains of any property herein described, and shall submit, and insofar as is within its power cause its employees, Covered Members and others to submit to examination under oath by any person named by the Authority and subscribe the same; and, as often as may be reasonably required, shall produce for examination all writings, books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by the Authority or its representative and shall permit extracts and copies thereof to be made. No such examination under oath or examination of books or documents, nor any act of the Covered Member or any of its employees or representatives in connection with the investigation of any loss or claim hereunder, shall be deemed a waiver of any defense which the Covered Member might otherwise have with respect to any loss or claim, but all such examinations and acts shall be deemed to have been made or done without prejudice to the Authority's liability.
- (4) Settlement of Loss: All adjusted claims shall be paid or made good to the Covered Member within sixty (60) days after presentation and acceptance of satisfactory proof of interest and loss at the office of the Authority. No loss shall be paid or made good if the Covered Member has collected the same from others.
- (5) No Benefit to Bailee: This MOC - P shall in no way inure directly or indirectly to the benefit of any carrier or other bailee.
- (6) Subrogation or Loan: If in the event of loss or damage the Covered Member shall acquire any right of action against any individual, firm or corporation for loss of, or damage to, property covered hereunder, the Covered Member will, if requested by the Authority,

assign and transfer such claim or right of action to the Authority or, at the Authority's option, execute and deliver to the Authority the customary form of loan receipt upon receiving an advance of funds in respect of the loss or damage; and will subrogate the Authority to, or will hold in trust for the Authority, all such rights of action to the extent of the amount paid or advanced, and will permit suit to be brought in the Covered Member's name under the direction of and at the expense of the Authority.

- (7) Protection and Preservation of Property: As per Section IV GENERAL CONDITIONS F)
- (8) Appraisal: If the Covered Member and the Authority fail to agree as to the amount of loss, each shall on the written demand of other, made within sixty (60) days after receipt of proof of loss by the Authority, select a competent and disinterested appraiser, and the appraisal shall be made at a reasonable time and place. The appraisers shall first select a competent and disinterested umpire, and failing for fifteen (15) days to agree upon such umpire, then on the request of the Covered Member or the Authority, such umpire shall be selected by a judge of a court of record in the state in which such appraisal is pending. The appraisers shall then appraise the loss, stating separately the actual cash value at the time of loss and the amount of loss, and failing to agree shall submit their differences to the umpire. An award in writing of any two shall determine the amount of loss. The Covered Member and the Authority shall each pay their chosen appraiser and shall bear equally the other expenses of the appraisal and umpire. The Covered Member shall not be held to have waived any of its rights by any act relating to appraisal.
- (9) Civil Authority: Property covered under this Section against the peril of fire is also covered against the risk of damage or destruction by Civil authority during a conflagration and for the purpose of retarding the same; provided that neither such conflagration nor such damage or destruction is caused or contributed to by a peril otherwise excluded herein.
- (10) Conformity to Statute: Terms of this Section that are in conflict with the statutes of the state wherein this Section is issued are hereby amended to conform to such statutes.
- (11) Changes: Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Section or stop the Covered Member from asserting any right under the terms of this Section, nor shall the terms of this Section be waived or changed except by endorsement issued to form a part of this Section.
- (12) Additional Covered Party(ies): The owner and owners defined as associations, corporations, firms, institutions, museums, persons and others who own or control collections, objects or articles who make them available to the Covered Member, and temporary borrowers or custodians (but not carriers, packers or shippers) of property covered, are additional Covered Party(ies) hereunder, but only as respects coverage afforded said Covered Member's property.
- (13) Packing: It is agreed by the Covered Member that the property covered hereunder be packed and unpacked by competent packers.

- (14) Other Insurance: Coverage provided by this Section is excess coverage over any other valid and collectible insurance which may apply to any objects of art for which coverage would apply under this MOC - P.
- (15) Pair and Set: In the event of the total loss of any article or articles which are a part of a set, the Authority agrees to pay the Covered Member the full amount of the value of such set and the Covered Member agrees to surrender the remaining article or articles of the set to the Authority.

## SECTION VI - MOBILE / CONTRACTORS EQUIPMENT

### A. COVERAGE

This extension covers only mobile machines, including equipment thereof while attached thereto or located thereon, such as bulldozers, drag lines, power shovels, derricks, drills, concrete mixers and other machinery of a mobile nature.

This extension insures against all risks of direct loss or damage to the above described property from any external cause except as provided below:

- A) Loss or damage due to wear, tear, rust, corrosion, latent defect, mechanical breakage, or improper assemblage.
- B) Loss or damage due to the weight of the load imposed on the machine exceeding the capacity for which such machine was designed.
- C) Loss or damage to crane or derrick boom(s) and jib(s) of lattice construction while being operated unless directly caused by fire, lightning, hail, windstorm, earthquake shock, explosion, riot, riot attending a strike, civil commotion, actual physical contact with an aircraft or airborne missile including objects falling therefrom, collision with other vehicles or other contractors equipment whether or not such other equipment is covered hereunder, landslide, or upset of the unit of which it is a part (but only when and to the same extent that such other perils are covered by the MOC - P).
- D) Loss or damage due to explosion arising from within steam boilers.
- E) Loss or damage to dynamos, exciters, lamps, switches, motors or other electrical appliances or devices, including wiring, caused by lightning or other electrical currents (artificial or natural) unless fire ensues and then for the loss by fire only.
- F) Loss or damage due to dishonesty of Covered Member's employees or persons to whom the Covered Member's property is entrusted.
- G) Loss or damage caused by or contributed to failure of the Covered Member to keep and maintain the property in a thorough state of repair.
- H) Loss or damage caused by or resulting from:
  - (1) hostile or warlike action in time of peace or, including action in hindering, combating or defending against an actual, impending or expected attack
    - (a) by any government or sovereign power (de jure or de facto) or by any authority maintaining using military, naval or air forces, or
    - (b) any military, naval or air forces, or
    - (c) by an agent of any such government, power, authority or forces

- (2) any weapon of war employing atomic fission or radioactive force whether in time of peace or war.
  - (3) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence, seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade.
- l) Loss by nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril(s) covered against in this Section; however, subject to the foregoing and all provisions of this MOC - P, direct loss by fire resulting from nuclear reaction or nuclear radiation or radioactive contamination is covered against by this MOC - P.

## **B. EXCLUSIONS**

- A) Automobiles, motorcycles, motor trucks, or parts thereof, unless as otherwise covered herein.
- B) Buildings used as camps or otherwise.
- C) Machinery or equipment or building materials to be installed in any building for the purpose of becoming a part thereof; nor on any property which has become a permanent part of any structure
- D) Property that is located underground.
- E) Property while waterborne except while being transported on any regular ferry.
- F) Plans, blue prints, designs or specifications.

## **C. LOSS PAYMENT BASIS/VALUATION**

Recovery for loss or damage to covered vehicles and contractors' equipment/unlicensed vehicles on or off premises, the Authority shall not be liable for more than the cost to repair or replace the same with material of like kind and quality, except when the repair costs exceed the market value of the vehicle (as established by a current valuation from "Kelly Blue Book"), in which case the Schedule Limit shall apply.

## **D. SPECIAL CONDITION**

This extension covers only within the limits of the United States of America and Canada.

It is a condition of this MOC - P that all articles covered hereunder are in sound condition at the time of attachment of this MOC - P.

## **E. DEFINITIONS**

Contractors' Equipment shall include but is not limited to:

Land vehicles including equipment and apparatus attached thereto, whether or not self-propelled and not subject to motor vehicle registration.



## **SECTION VII - ACCOUNTS RECEIVABLE**

### **A. COVERAGE**

This MOC - P covers the loss of or damage to the Covered Member's records of accounts receivable as defined below, occurring during the period of coverage as a result of direct physical loss or damage as covered by this MOC - P.

### **B. EXCLUSIONS**

This MOC - P does not apply:

- A) To loss due to any fraudulent, dishonest or criminal act by the Covered Member, a partner therein, or an officer, director or trustee thereof, while working or otherwise and whether acting alone or in collusion with others.
- B) To loss due to bookkeeping, accounting or billing errors or omissions.
- C) To loss, the proof of which as to factual existence, is dependent upon an audit of records or an inventory computation; but this shall not preclude the use of such procedures in support of claim for loss which the Covered Member can prove through evidence wholly apart therefrom, is due solely to a risk of loss to records of accounts receivable not otherwise excluded hereunder.
- D) To loss due to alteration, falsification, manipulation, concealment, destruction or disposal of records of accounts receivable committed to conceal the wrongful giving, taking, obtaining or withholding of money, securities or other property, but only to the extent of such wrongful giving, taking, obtaining or withholding.

### **C. LOSS PAYMENT BASIS/VALUATION**

#### **DETERMINATION OF RECEIVABLES; DEDUCTIONS**

When there is proof that a loss covered by this Section has occurred but the Covered Member cannot accurately establish the total amount of accounts receivable outstanding as of the date of such loss, such amount shall be based on the Covered Member's monthly statements and shall be computed as follows:

- (1) Determine the amount of all outstanding accounts receivable at the end of the same fiscal month in the year immediately preceding the year in which the loss occurs.
- (2) Calculate the percentage of increase or decrease in the average monthly total of accounts receivable for the twelve (12) months immediately preceding the month in which the loss occurs as compared with such average for the months of the preceding year
- (3) The amount determined under (1) above, increased or decreased by the percentage calculated under (2) above, shall be the agreed total amount of accounts receivable as of the last day of the fiscal month in which said loss occurs

- (4) The amount determined under (3) above shall be increased or decreased in conformity with the normal fluctuations in the amount of accounts receivable during the fiscal month involved, due consideration being given to the experience of the business since the last day of the last fiscal month for which statement has been rendered.

There shall be deducted from the total amount of accounts receivable, however established, the amount of such accounts evidenced by records not lost or damaged or otherwise established or collected by the Covered Member, and an amount to allow for probable bad debts which would normally have been uncollectible by the Covered Member. All unearned interest and service charges shall be deducted.

## **A. DEFINITION**

### **ACCOUNTS RECEIVABLE**

- (1) All sums due the Covered Member from customers, provided the Covered Member is unable to effect collection thereof as the direct result of loss or damage to records of accounts receivable.
- (2) Interest charges on any loan to offset impaired collections pending repayment of such sums made uncollectible by such loss or damage.
- (3) Collection expense in excess of normal collection cost and made necessary because of such loss or damage.
- (4) Other expenses, when reasonably incurred by the Covered Member, in re-establishing records of accounts receivable following such loss or damage.

## SECTION VIII – APPEAL OF DISPUTES

No party is entitled to appeal or arbitrate claims under this **Memorandum** other than the **Member**. Any disputes concerning coverage, protection, **Defense** obligations, or procedures of the **Program**, as interpreted by the **Authority's** staff, shall be appealed to the **Authority's** Executive Committee in accordance with the following procedures.

- A. A written notice that a Claim is not covered by the Memorandum will normally be provided to the Member by the Claims Administrator. A Member may request any determination of a lack of coverage made by the Claims Administrator to be reviewed by the Chief Executive Officer. Such a request shall be in writing and must be made within 90 days of the date of the written notice from the Claims Administrator.
- B. Upon request, the Chief Executive Officer shall review a determination of a lack of coverage made by the Claims Administrator or Authority staff and shall send to the Member a written determination of coverage.
- C. If a Member disagrees with the coverage determination by the Chief Executive Officer, the Member may appeal the decision to the Appeals Committee. The Appeals Committee consists of the Executive Committee and the chairs of the Managers and Finance Officers Committees. Appeals must be in writing within 90 days of the date of the Chief Executive Officers written decision. The appeal request must state why the Member disagrees with the denial, and the Member should present any information that may have a bearing on the ultimate determination of coverage.
- D. The appeal request shall be presented by Authority staff to the Appeals Committee, on a regularly scheduled Executive Committee meeting day, allowing time for sufficient review and agenda deadlines. Staff shall notify the Member in advance of the meeting at which its appeal will be presented.
- E. If the Member would like to personally address the Appeals Committee, the Member or the Member's representative may attend the meeting and speak to the issue.
- F. The Appeals Committee may refer the appeal to the Coverage Committee and consider the recommendation of the Coverage Committee during its deliberation on the appeal. The Appeals Committee's decision is final. Authority staff will notify the Member of the Appeals Committee's decision in writing.
- G. Following a final determination regarding a Claim, consideration of the decision may be reopened at the request of the Member if circumstances change as follows: (1) a new and distinct Claim arising out of the prior Occurrence is presented to the Member, or (2) new and distinct causes of action are added to the Claim. If the new Claim or causes of action are reasonably thought by the Member to be covered, the Appeals Committee will reconsider the issue, in accordance with the procedure in this Section J. Appeal of Disputes, upon request. Any request for such reconsideration must be in writing within 90 days of the notice to the Member of the new Claim or cause of action.
- H. If the Member has followed the coverage appeals procedure outlined in Section 5.J. Appeal of Disputes and disagrees with the final determination of the Appeals Committee, the Member may request consideration of the coverage issue through the Authority's Binding Arbitration Process.

The Binding Arbitration Process shall be as follows:

- A. Following a decision by the Appeals Committee, the appealing Member shall notify the Chief Executive Officer in writing, within 30 days of the Appeals Committee's final decision, that it wishes to participate in Binding Arbitration and shall submit a non-refundable \$1,000 arbitration appeal fee. The written notice shall specify the grounds for the arbitration.
- B. Following payment of the arbitration appeals fee, the name of each Member, other than the appealing Member and the Members represented on the Appeals Committee, shall be placed in an unmarked envelope. Each envelope shall be placed in a box and eleven envelopes shall be drawn by the Chief Executive Officer. A representative of the appealing Member may be present at the drawing.
- C. The Chief Executives of the eleven Members shall be the pool of potential arbitrators. The eleven Members and the names of their Chief Executives shall be given in writing to the appealing Member.
- D. The appealing Member shall have the right to strike two or less names from the pool for any reason which shall not be disclosed. The Authority shall have the right to strike two or less names from the pool for any reason which shall not be disclosed. The appealing Member and the Authority must strike names within five business days of the drawing. The right of either party to strike names shall lapse at 5:00 PM on the fifth day following the drawing. Notice of names stricken by either party shall be given in writing to the other party prior to 5:00 PM on the fifth day following the drawing.
- E. E.The remaining Chief Executives shall be contacted by the Chief Executive Officer to determine their willingness to serve on the arbitration panel. If more than five are willing to serve, each name shall be placed in an unmarked envelope, put in a box, and the Chief Executive Officer shall draw five envelopes from the box. The individuals whose names are drawn shall be the arbitration panel and they shall be disclosed in writing to the appealing Member.
- F. F.If only five are willing to serve, they shall be the arbitration panel.
- G. fewer than five are willing to serve, the name of each member not drawn in the previous selection drawing shall be placed in an unmarked envelope, put in a box, and four envelopes shall be drawn for each arbitration panel position needed to have a five-member panel. A representative of the appealing Member may be present at the drawing. The names drawn shall be disclosed to the appealing Member who may reject, for any reason which shall not be disclosed, one name for each four names drawn. The Authority may also reject one name for each four names drawn and shall not disclose the reason. Names rejected by the appealing Member and the Authority must be rejected within 48-hours of the drawing. The right to reject names shall lapse 48-hours following the drawing.
- H. The Chief Executives of the Members remaining shall be contacted by the Chief Executive Officer to determine their willingness to serve on the arbitration panel. The names of those willing to serve shall be placed in unmarked envelopes, put in a box, and the number necessary to fill out the arbitration panel shall be drawn by the Chief Executive Officer and

disclosed in writing to the appealing Member. A representative of the appealing Member may be present at the drawing.

- I. This process shall be repeated until five members are obtained for the arbitration panel.
- J. The arbitration panel members shall be compensated at the rate of \$125 per half-day or portion thereof. If a panel member is required to stay away from home overnight, lodging shall be paid by the Authority. Necessary meals shall be provided for all panel members. Mileage costs shall be reimbursed by the Authority at its standard rate.
- K. The cost of the arbitration panel shall be borne by the Authority. The cost of presentation by the appealing Member, including preparation, exhibits, attorneys, and all other costs of the Member shall be paid by the Member.
- L. The arbitration panel may request legal counsel that shall be selected by the Chief Executive Officer and paid for by the Authority. Legal counsel shall not be the counsel for the Authority that has advised the staff and Executive Committee. However, counsel for the Authority may participate in or make the presentation to the arbitration panel on behalf of the Authority, as requested by the Chief Executive Officer.
- M. The parties to the arbitration shall not be governed by formal rules of evidence.
- N. The arbitration panel's decision shall be final and binding on the Member and the Authority. Decisions of the arbitration panel shall be by majority vote.
- O. The decision of the arbitration panel shall be written and shall govern the issue decided but may be referred to by the Authority and future arbitration panels for precedent.

## ENDORSEMENTS

### 1. SEEPAGE AND / OR POLLUTION AND / OR CONTAMINATION EXCLUSION

Notwithstanding any provision in the MOC - P to which the endorsement is attached, this MOC - P does not cover loss, damage, costs or expenses in connection with any kind or description of seepage and / or pollution and / or contamination, direct or indirect, arising from any cause whatsoever.

Nevertheless, if fire is not excluded from this MOC - P and a fire arises directly or indirectly from seepage and / or pollution and / or contamination, any loss or damage covered under this MOC - P arising directly from that fire shall, (subject to the terms, conditions and limitations of the MOC - P) be covered.

However, if the covered property is the subject of direct physical loss or damage for which the Covered Member has paid or agreed to pay, then this MOC - P (subject to its terms, conditions and limitations) insures against direct physical loss or damage to the property covered hereunder caused by resulting seepage and / or pollution and / or contamination.

The Covered Member shall give notice to the Authority of Intent to claim **NO LATER THAN TWELVE (12) MONTHS AFTER THE DATE OF THE PHYSICAL LOSS OR DAMAGE.**

### DEBRIS REMOVAL AND COST OF CLEAN-UP EXTENSION

Notwithstanding the provisions of the preceding exclusions in this endorsement or any provision respecting seepage and/or pollution and/or contamination, and/or debris removal and/or cost of clean-up in the MOC - P to which this endorsement is attached, in the event of direct physical loss or damage to the property covered hereunder, this MOC - P (subject otherwise to its terms, conditions and limitations, including but not limited to any applicable deductible) also insures, within the sum covered:

- A) expenses reasonably incurred in removal of debris of the property hereunder destroyed or damaged from the premises of the Covered Member and/or covered party;  
  
and/or
- B) cost of clean-up at the premises of the Covered Member made necessary as a result of such direct physical loss or damage;

PROVIDED that this MOC - P does not insure against the costs of decontamination or removal of water, soil or any other substance on or under such premises.

It is a condition precedent to recovery under this extension that the Company shall have paid or agreed to pay for direct physical loss or damage to the property covered hereunder unless such payment is precluded solely by the operation of any deductible and that the Covered Member shall give notice to the Company of intent to claim for cost of removal

of debris or cost of clean-up **NO LATER THAN TWELVE (12) MONTHS AFTER THE DATE OF SUCH PHYSICAL LOSS OR DAMAGE.**

### **CIVIL AUTHORITIES EXCLUSION**

Notwithstanding any of the preceding provisions of this endorsement or any provision of the MOC - P to which this endorsement is attached, this MOC - P does not cover loss, damage, costs, expenses, fines or penalties incurred or sustained by or imposed on the Covered Member at the order of any government agency, court or other civil authorities arising from any cause whatsoever.

Nothing in this endorsement shall override any radioactive contamination exclusion clause in the MOC - P to which this endorsement is attached.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, or limitations of the MOC - P to which this endorsement is attached other than as above stated.

## **2. PROPERTY CYBER AND DATA ENDORSEMENT**

1 Notwithstanding any provision to the contrary within this MOC - P or any endorsement thereto this MOC - P excludes any:

1.1 Cyber Loss, unless subject to the provisions of paragraph 2;

1.2 loss, damage, liability, claim, cost, expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any loss of use, reduction in functionality, repair, replacement, restoration or reproduction of any Data, including any amount pertaining to the value of such Data, unless subject to the provisions of paragraph 3;

regardless of any other cause or event contributing concurrently or in any other sequence thereto.

2 Subject to all the terms, conditions, limitations and exclusions of this MOC - P or any endorsement thereto, this MOC - P covers physical loss or physical damage to property insured under this MOC - P caused by any ensuing fire or explosion which directly results from a Cyber Incident, unless that Cyber Incident is caused by, contributed to by, resulting from, arising out of or in connection with a Cyber Act including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any Cyber Act.

3 Subject to all the terms, conditions, limitations and exclusions of this MOC - P or any endorsement thereto, should Data Processing Media owned or operated by the Insured suffer physical loss or physical damage insured by this MOC - P, then this MOC - P will cover the cost to repair or replace the Data Processing Media itself plus the costs of copying the Data from back-up or from originals of a previous generation. These costs will not include research and engineering nor any costs of recreating, gathering or assembling the Data. If such media is not repaired, replaced or restored the basis of

valuation shall be the cost of the blank Data Processing Media. However, this MOC - P excludes any amount pertaining to the value of such Data, to the Insured or any other party, even if such Data cannot be recreated, gathered or assembled.

- 4 In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.
- 5 This endorsement supersedes and, if in conflict with any other wording in the MOC - P or any endorsement thereto having a bearing on Cyber Loss, Data or Data Processing Media, replaces that wording.

### **Definitions**

- 6 Cyber Loss means any loss, damage, liability, claim, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any Cyber Act or Cyber Incident including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any Cyber Act or Cyber Incident.
- 7 Cyber Act means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any Computer System.
- 8 Cyber Incident means:
  - 8.1 any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any Computer System; or
  - 8.2 any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any Computer System.
- 9 Computer System means:
  - 9.1 any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility,  
  
owned or operated by the Insured or any other party.
- 10 Data means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a Computer System.
- 11 Data Processing Media means any property insured by this MOC - P on which Data can be stored but not the Data itself.



### **3. COMMUNICABLE DISEASE ENDORSEMENT**

#### **(For use on property policies)**

- 1 This MOC - P, subject to all applicable terms, conditions and exclusions, covers losses attributable to direct physical loss or physical damage occurring during the period of insurance. Consequently and notwithstanding any other provision of this MOC - P to the contrary, this MOC - P does not insure any loss, damage, claim, cost, expense or other sum, directly or indirectly arising out of, attributable to, or occurring concurrently or in any sequence with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.
- 2 For the purposes of this endorsement, loss, damage, claim, cost, expense or other sum, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor or test:
  - 2.1 for a Communicable Disease, or
  - 2.2 any property insured hereunder that is affected by such Communicable Disease.
- 3 As used herein, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
  - 3.1 the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
  - 3.2 the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
  - 3.3 the disease, substance or agent can cause or threaten damage to human health or human welfare or can cause or threaten damage to, deterioration of, loss of value of, marketability of or loss of use of property insured hereunder.
- 4 This endorsement applies to all coverage extensions, additional coverages, exceptions to any exclusion and other coverage grant(s).

All other terms, conditions and exclusions of the MOC - P remain the same.



## **COVERAGE PART B - TERRORISM**

### **A. COVERAGE CLAUSE**

Subject to the definitions, exclusions, limits and conditions contained in this Coverage Part B, the Authority agree to indemnify the Covered Member in respect of direct physical loss or physical damage to the covered property described in the MOC - P Section A, while located at the premises or contained within the territory described in the MOC - P Coverage Part A, occurring during the period of coverage and caused by an Act of Terrorism, as herein defined.

### **B. APPLICATION OF MEMORANDUM OF PROPERTY COVERAGE PROVISIONS**

Coverage Part B is subject to the same warranties, terms and conditions (except as regards the premium, the amount and Limits of Liability (including any reinstatement provisions) 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 MOC - P Section A prior to the happening of a loss for which claim is made hereunder and should any alteration be made in the premium for the MOC - P Coverage Part A, then the premium hereon may be adjusted accordingly.

### **C. LIMIT**

The Authority hereon shall not be liable for more than \$100,000,000 any one occurrence and in the annual aggregate.

### **D. DEDUCTIBLE**

Each occurrence shall be adjusted separately and from each such amount the sum stated below shall be deducted:

\$10,000 any one occurrence.

24-Hour waiting period in respect of Off Premises Services Business Interruption.

### **E. MAINTENANCE OF THE MEMORANDUM OF PROPERTY COVERAGE**

It is a condition precedent to recovery under this Coverage Part B that the coverage provided in this MOC - P Coverage Part A shall be maintained in full force and effect during the period of coverage.

In the event of the MOC - P Coverage Part A being cancelled by the Covered Member, or the Authority, this coverage in Coverage Part B shall also automatically terminate on such date of such cancellation.

## **F. DEFINITIONS**

- (a) Occurrence: The word "Occurrence" shall mean any one loss and/or series of losses arising out of and directly occasioned by one Act or series of Acts of Terrorism or Sabotage for the same purpose or cause. The duration and extent of any one "Occurrence" shall be limited to all losses sustained by the Covered Member at the property covered herein during any period of 72 consecutive hours arising out of the same purpose or cause. However, no such period of 72 consecutive hours may extend beyond the expiration of this MOC - P unless the Covered Member shall first sustain direct physical damage by an Act of Terrorism or an Act of Sabotage prior to expiration and within said period of 72 consecutive hours nor shall any period of 72 consecutive hours commence prior to the attachment of this Coverage Part B.
- (b) Act of Terrorism: The words "Act of Terrorism" means an act or series of acts, including but not limited to the use of force or violence, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s), committed for political, religious or 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 for such purposes.
- (c) Act of Sabotage: For the purpose of this Coverage Part B, an act of sabotage means a subversive act or series of such acts committed for political, religious or ideological purposes including the intention to influence any government and/or to put the public in fear for such purposes.

## **G. LOSSES EXCLUDED**

Coverage Part B does not cover:

1. Loss or damage arising directly or indirectly from nuclear detonation, nuclear reaction, nuclear radiation or radioactive contamination, however such nuclear detonation, nuclear reaction, nuclear radiation or radioactive contamination may have been caused.
2. Loss or damage occasioned directly or indirectly by war, invasion or warlike operations (whether war be declared or not), hostile acts of sovereign or local government entities, civil war, rebellion, revolution, insurrection, martial law, usurpation of power, or civil commotion assuming the proportions of or amounting to an uprising.
3. Loss by seizure or legal or illegal occupation unless physical loss or damage is caused directly by an Act of Terrorism or an Act of Sabotage.
4. Loss or damage caused by confiscation, nationalization, requisition, detention, embargo, quarantine, or any result of any order of public or government authority which deprives the Covered Member of the use or value of its property, nor for loss or damage arising from acts of contraband or illegal transportation or illegal trade.

5. Loss or damage directly or indirectly arising from or in consequence of the seepage and/or discharge of pollutants or contaminants, which pollutants and contaminants shall include but not be limited to any solid, liquid, gaseous or thermal irritant, contaminant or toxic or hazardous substance or any substance the presence, existence or release of which endangers or threatens to endanger the health, safety or welfare of persons or the environment.
6. Loss or damage arising directly or indirectly from or in consequence of chemical or biological emission, release, discharge, dispersal or escape or chemical or biological exposure of any kind.
7. Loss or damage by electronic means including but not limited to computer hacking or the introduction of any form of computer virus or corrupting or unauthorized instructions or code or the use of any electromagnetic weapon.

This exclusion shall not operate to exclude losses (which would otherwise be covered under this MOC - P Section A) arising from the use of any computer, computer system or computer software program or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

8. Loss or damage caused by vandals or other persons acting maliciously or by way of protest or strikes, labor unrest, riots or civil commotion unless damage is caused directly by an Act of Terrorism.
9. Loss or increased cost as a result of threat or hoax.
10. Loss, damage, to an unmanned aerial vehicle (aka: drone) while in operation.

#### **H. PROPERTY NOT COVERED**

As respects the peril(s) covered in this Coverage Part B, this MOC - P does not cover physical loss or physical damage to:

1. Land or land values except landscaping including natural athletic fields, sand traps, tees and greens which are excluded excess of the sublimits in the Program Limits of Liability shown in the Declarations attached to this MOC - P.
2. Power transmission, feeder lines or pipelines not on the Covered Member's premises.
3. Watercraft, unless scheduled and under 26 feet in length.
4. Aircraft except small unmanned aircraft meaning, a device that is used or intended to be used for flight in the air without the possibility of direct human intervention from within or on the aircraft and weighing less than 55 pounds on takeoff, including everything that is on board or otherwise attached to the aircraft and such coverage is provided only while not in operation.

5. Any land conveyance, including vehicles, locomotives or rolling stock, unless such land conveyance is declared hereon and solely whilst located at the property covered herein at the time of its damage.
6. Animals, plants and living things of all types.

#### **I. TEMPORARY OR UNNAMED LOCATIONS/ERRORS AND OMISSIONS**

Coverage Part B does not cover property covered under any temporary or unnamed location or errors and omissions coverage provided under the MOC - P Coverage Part A if such property is located within the Restricted Areas being:

**New York City** - 10001 through to 10029, 10036, 10038, 10044, 10048, 10128

**Chicago** - 60601 through to 60611

**San Francisco** - 94102, 94103, 94104, 94105, 94107, 94108, 94109, 94110, 94111, 94112, 94114, 94115, 94116, 94117, 94118, 94121, 94122, 94123, 94124, 94127, 94129, 94131, 94132, 94133, 94134

**Washington** - 20001, 20004, 20005, 20006

**Boston** - 02108, 02109, 02110, 02111, 02113, 02114

#### **J. CLAIMS**

The Covered Member, upon knowledge of any occurrence likely to give rise to a claim hereunder, shall give written advice as soon as reasonably practicable to the Authority for that purpose in the Declarations Page, who is to advise the Authority within seven (7) days of such knowledge of any occurrence and it is a condition precedent to the liability of the Authority that such notification is given by the Covered Member as provided for by this MOC - P.

If the Covered Member makes a claim under this MOC - P the Covered Member must give the Authority such relevant information and evidence as may reasonably be required and co-operate fully in the investigation or adjustment of any claim. If required by the Authority, the Covered Member must submit to examination under oath by any person designated by the Authority

#### **K. AUTOMATIC COVERAGE / REPORTING CONDITIONS**

All as per the MOC - P Coverage Part A except in Restricted Areas, as stated above.