

This Face Page attaches to and becomes a part of the following policy:

Insured: Noel Management Company, Inc

Policy #: ESP1047915-00

Effective Date: 9/29/2023

Date Policy/Endorsement Received:

Zip Code of Risk Location: 75010

THIS INSURANCE CONTRACT IS WITH AN INSURER NOT LICENSED TO TRANSACT INSURANCE IN THIS STATE AND IS ISSUED AND DELIVERED AS SURPLUS LINE COVERAGE UNDER THE TEXAS INSURANCE STATUTES. THE TEXAS DEPARTMENT OF INSURANCE DOES NOT AUDIT THE FINANCES OR REVIEW THE SOLVENCY OF THE SURPLUS LINES INSURER PROVIDING THIS COVERAGE, AND THE INSURER IS NOT A MEMBER OF THE PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION CREATED UNDER CHAPTER 462, INSURANCE CODE. CHAPTER 225, INSURANCE CODE, REQUIRES PAYMENT OF A 4.85 PERCENT TAX ON GROSS PREMIUM.

Rev. 4/1/09

Name and Address of Insurer:

Arch Specialty Insurance Company

Name and Address of Surplus Lines Agent:

RSG Specialty, LLC

180 N. Stetson Avenue, Suite 4600

Chicago, IL 60601

Premium:	\$45,000.00
TRIA Premium:	REJECTED
Fees:	
Surplus Lines Tax:	\$2,182.50
Stamping Fee:	\$33.75
Total:	\$47,216.25

## **Have a complaint or need help?**

If you have a problem with a claim or your premium, call your insurance company or HMO first. If you can't work out the issue, the Texas Department of Insurance may be able to help.

Even if you file a complaint with the Texas Department of Insurance, you should also file a complaint or appeal through your insurance company or HMO. If you don't, you may lose your right to appeal.

### **Arch Specialty Insurance Company**

To get information or file a complaint with your insurance company or HMO:

**Call: Arch Specialty Insurance Company at (203) 975-5960**

**Toll-free:**

Online:

Email:

Mail: 100 First Stamford Place, Suite 325  
Stamford, CT 06902

### **The Texas Department of Insurance**

To get help with an insurance question or file a complaint with the state:

Call with a question: 1-800-252-3439

File a complaint: [www.tdi.texas.gov](http://www.tdi.texas.gov)

Email: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

Mail: MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091

## **¿Tiene una queja o necesita ayuda?**

Si tiene un problema con una reclamación o con su prima de seguro, llame primero a su compañía de seguros o HMO. Si no puede resolver el problema, es posible que el Departamento de Seguros de Texas (Texas Department of Insurance, por su nombre en inglés) pueda ayudar.

Aun si usted presenta una queja ante el Departamento de Seguros de Texas, también debe presentar una queja a través del proceso de quejas o de apelaciones de su compañía de seguros o HMO. Si no lo hace, podría perder su derecho para apelar.

### **Arch Specialty Insurance Company**

Para obtener información o para presentar una queja ante su compañía de seguros o HMO:

**Llame a: Arch Specialty Insurance Company al (203) 975-5960**

**Teléfono gratuito:**

En línea:

Correo electrónico:

Dirección postal: 100 First Stamford Place, Suite 325  
Stamford, CT 06902

### **El Departamento de Seguros de Texas**

Para obtener ayuda con una pregunta relacionada con los seguros o para presentar una queja ante el estado:

Llame con sus preguntas al: 1-800-252-3439

Presente una queja en: [www.tdi.texas.gov](http://www.tdi.texas.gov)

Correo electrónico: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

Dirección postal: MC 111-1A, P.O. Box 149091, Austin, TX 78714-90

**NO FLAT  
CANCELLATIONS**

This insurance contract is with an insurer not licensed to transact insurance in this state and is issued and delivered as a surplus line coverage under the Texas insurance statutes. The Texas Department of Insurance does not audit the finances or review the solvency of the surplus lines insurer providing this coverage, and this insurer is not a member of the property and casualty insurance guaranty association created under Chapter 462, Insurance Code. Chapter 225, Insurance Code, requires payment of a 4.85 percent tax on gross premium.



**ARCH SPECIALTY INSURANCE COMPANY**

(A Missouri Corporation)

Home Office Address:  
2345 Grand Blvd.  
Suite 900  
Kansas City, Missouri 64108

Administrative Address:  
Harborside 3  
210 Hudson Street, Suite 300  
Jersey City, NJ 07311-1107  
Tel: (866) 413-5550

**TEXAS COMMERCIAL PROPERTY  
DECLARATIONS**

**Policy Number:** ESP1047915-00

**Named Insured:** Noel Management Company, Inc.  
**Address:** 1605 LBJ Freeway Suite 250  
Dallas, TX 75234

**Policy Period:**  
**From:** September 29, 2023 **To:** September 29, 2024  
at 12:01 A.M., Standard Time at your mailing address shown above.

**THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.**

<b>Commercial Property Coverage Part</b>	<b>PREMIUM</b>
	\$45,000.00
<b>Total</b>	\$45,000.00

Premium Shown is payable at inception.

**LOCATION COVERED:** As Per Schedule on File with the Company

**FORMS AND ENDORSEMENTS** Applying to this Coverage Part and Made Part of this Policy at  
**Time of Issue:** See attached Schedule of Forms and Endorsements

**ISSUE DATE:** November 1, 2023

**Surplus Lines Agent Name:** RSG Specialty, LLC, operated by the R-T Specialty Division  
**Surplus Lines Agent Address:** Prudential Plaza  
180 N. Stetson Avenue, Suite 4600  
Chicago, IL 60601

**Surplus Lines Agent License:** 1624899  
**Surplus Lines State Taxes were filed:** TX

Arch Specialty Insurance Company is licensed in the state of Missouri only.

## Have a complaint or need help?

If you have a problem with a claim or your premium, call your insurance company. If you can't work out the issue, the Texas Department of Insurance may be able to help.

Even if you file a complaint with the Texas Department of Insurance, you should also file a complaint or appeal through your insurance company. If you don't, you may lose your right to appeal.

### Arch Insurance Group

To get information or file a complaint with your insurance company:

**Call: Kathleen Campbell (VP, Compliance) at 1-866-413-5550**

**Toll-free: 1-866-413-5550**

Online: <http://www.archcapgroup.com>

Email: [consumercomplaints@archcapservices.com](mailto:consumercomplaints@archcapservices.com)

Mail: **Harborside 3**

**210 Hudson Street, Suite 300**

**Jersey City, NJ 07311-1107**

### The Texas Department of Insurance

To get help with an insurance question or file a complaint with the state:

Call with a question: 1-800-252-3439

File a complaint: [www.tdi.texas.gov](http://www.tdi.texas.gov)

Email: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

Mail: Consumer Protection, MC: CO-CP, Texas Department of Insurance, PO Box 12030, Austin, TX 78711-2030

## ¿Tiene una queja o necesita ayuda?

Si tiene un problema con una reclamación o con su prima de seguro, llame primero a su compañía de seguros. Si no puede resolver el problema, es posible que el Departamento de Seguros de Texas (Texas Department of Insurance, por su nombre en inglés) pueda ayudar.

Aun si usted presenta una queja ante el Departamento de Seguros de Texas, también debe presentar una queja a través del proceso de quejas o de apelaciones de su compañía de seguros. Si no lo hace, podría perder su derecho para apelar.

**Arch Insurance Group**

Para obtener información o para presentar una queja ante su compañía de seguros:

**Llame a: Kathleen Campbell (VP, Compliance) al 1-866-413-5550**

**Teléfono gratuito: 1-866-413-5550**

Correo electrónico:

**consumercomplaints@archcapservices.com** Dirección postal:

**Harborside 3**

**210 Hudson Street, Suite 300**

**Jersey City, NJ 07311-1107**

**El Departamento de Seguros de Texas**

Para obtener ayuda con una pregunta relacionada con los seguros o para presentar una queja ante el estado:

Llame con sus preguntas al: 1-800-252-3439

Presente una queja en: [www.tdi.texas.gov](http://www.tdi.texas.gov)

Correo electrónico: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

Dirección postal: Consumer Protection, MC: CO-CP, Texas Department of Insurance, PO Box 12030, Austin, TX 78711-2030

## SCHEDULE OF FORMS AND ENDORSEMENTS

<b>NAMED INSURED:</b> Noel Management Company, Inc.	<b>TERM:</b> September 29, 2023 to September 29, 2024
<b>POLICY NUMBER:</b> ESP1047915-00	

ENDT. NO.	FORM NO.	TITLE
	00 ML0042 44 07 23	IMPORTANT NOTICE TO ALL TEXAS POLICYHOLDERS
	06 ML0002 00 12 14	SIGNATURE PAGE (ARCH SPECIALTY)
1	00 EXP0009 00 11 14	MINIMUM EARNED PREMIUM CLAUSE – PERCENTAGE
	00 EXP0091 00 11 03	COMMON POLICY CONDITIONS
2	00 ML0325 00 03 23	CHOICE OF LAW, CONSENT TO JURISDICTION, LIMITATION OF ACTIONS AND SERVICE OF SUIT
	06 CP0002 00 03 08	CLAIMS HANDLING PROCEDURES (Arch Specialty Ins. Co.)
3	00 EXP0125 00 06 06	TOTAL TERRORISM EXCLUSION
	00 ML0065 00 06 07	U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC")
4	00 EXP0078 00 01 16	OCCURRENCE LIMIT OF LIABILITY ENDORSEMENT
5	00 EXP0003 00 08 14	EXCLUSION AND LIMITED ADDITIONAL COVERAGE FOR FUNGUS
6	00 EXP0004 00 08 15	ELECTRONIC DATA LOSS OR DAMAGE - EXCLUSION
7	00 EXP0189 00 02 15	ASBESTOS MATERIAL REMOVAL LIMITATION
8	00 EXP0192 00 03 15	EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA
9	00 EXP0225 00 03 21	APPRAISAL
10	00 EXP0190 00 02 15	AUTHORITIES EXCLUSION
11	00 PRP0042 00 06 15	POLLUTION AND CONTAMINATION EXCLUSION ENDORSEMENT
12	00 ML0207 00 11 03	COSMETIC DAMAGE TO ROOF SURFACING EXCLUSION ENDORSEMENT
13	00 EXP0132 00 11 14	PRE-EXISTING DAMAGE EXCLUSION
14	00 ML0207 00 11 03	ROOF SURFACING VALUATION LIMITATION ENDORSEMENT
	06 EXPS001 00 08 18	EXCESS PHYSICAL DAMAGE SCHEDULE
	00 EXP0184 00 11 14	EXCESS PROPERTY FOLLOWING FORM COVERAGE PART





Signature Page

IN WITNESS WHEREOF, Arch Specialty Insurance Company has caused this policy to be executed and attested.

A handwritten signature in cursive script, reading "Brian D. First".

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Brian D. First  
President

A handwritten signature in cursive script, reading "Regan A. Shulman".

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Regan Shulman  
Secretary

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**MINIMUM EARNED PREMIUM CLAUSE – PERCENTAGE**

This endorsement modifies insurance provided under this policy.

It is agreed that in the event of cancellation of this policy by you, a minimum premium of 35.00% of the original policy premium shall become earned; any conditions of the policy to the contrary notwithstanding.

Your failure to make timely payment of premium shall be considered a request by you for us to cancel. In the event of such cancellation by us for non-payment of premium, the minimum premium shall be due and payable; provided, however, such non-payment cancellation shall be rescinded if you remit the full premium due within ten (10) days of receiving it.

In the event of any other cancellation by us, the earned premium shall be computed pro rata, not subject to the minimum premium.

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 1

Policy Number: ESP1047915-00

Named Insured: Noel Management Company, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: September 29, 2023

## COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

### A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

### B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

### C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

### D. Inspections And Surveys

1. We have the right to:
  - a. Make inspections and surveys at any time;
  - b. Give you reports on the conditions we find; and
  - c. Recommend changes.
2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of

any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

- a.** Are safe or healthful; or
  - b.** Comply with laws, regulations, codes or standards.
- 3.** Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
- 4.** Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

**E. Premiums**

The first Named Insured shown in the Declarations:

- 1.** Is responsible for the payment of all premiums; and
- 2.** Will be the payee for any return premiums we pay.

**F. Transfer Of Your Rights And Duties Under This Policy**

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**CHOICE OF LAW, CONSENT TO JURISDICTION, LIMITATION OF ACTIONS AND  
SERVICE OF SUIT**

This endorsement modifies insurance provided under this policy.

It is agreed that:

1. Choice of Law

This policy, including all additions, endorsements and modifications thereto, and/or any dispute or action arising under or relating to this policy shall be interpreted under the laws of the State of New York.

2. Consent to Jurisdiction

By accepting this policy or by presenting a claim that any insured contends is or may be covered under this policy, the Named Insured and any other insured submits themselves to the exclusive jurisdiction of the Supreme Court of the State of New York in New York County, New York or the United States District Court for the Southern District of New York. The Insured agrees to comply with all requirements necessary to give such court jurisdiction, and, to the extent permitted by law, to expressly waive all rights to challenge or otherwise limit such jurisdiction. All matters arising under or relating to this policy shall be determined in accordance with the law and practice of such Court, provided that nothing shall prohibit the Insurer from removing any action, suit or proceeding to the United States District Court for the Southern District of New York.

3. Limitation of Actions

No suit may be initiated against the Insurer:

a. if commenced:

- (1) before the Insured has given the Insurer notice of loss or damage and has permitted the Insurer reasonable opportunity to investigate such loss or damage; and
- (2) more than twelve (12) months after such loss or damage first occurs unless the Insurer agrees in writing to extend such time period; or

b. if the Insured has not complied with the terms of this policy.

Neither paragraph 2 of this endorsement nor the filing of any suit precludes the enforcement of any arbitration provision in this policy.

4. Service of Suit

Service of process in the above described action, suit or proceeding may be made upon:

General Counsel  
Arch Specialty Insurance Company  
Harborside 3  
210 Hudson Street, Suite 300  
Jersey City, NJ 07311-1107.

Upon the request of the Insured, such General Counsel shall give a written undertaking to enter an appearance on behalf of the Insurer in the event that such an action, suit or proceeding shall be instituted.

Pursuant to any statute of any state, territory or district of the United States which makes provision therefore, the Insurer hereby designates the Superintendent, Commissioner, or Director of Insurance or other officer specified in such statute as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted against the Insurer upon this Policy. The Superintendent, Commissioner or Director of Insurance or other officer is hereby authorized and directed to accept service of process on behalf of the Insurer in any such action, suit or proceeding and to mail a copy of such process to the above mentioned General Counsel.

All other terms and conditions of this Policy remain unchanged.

Endorsement Number: 2

Policy Number: ESP1047915-00

Named Insured: Noel Management Company, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: September 29, 2023

## **CLAIMS HANDLING PROCEDURES**

An important value of your insurance coverage is the ability of the insurance company to respond when you have a claim. Arch Specialty Insurance Company is committed to providing its insureds with effective claim services.

Notices of each incident, claim or suit must be sent immediately to:

Arch Specialty Insurance Company  
PROPERTY Claims  
1299 Farnam Street, Suite 500  
Omaha, NE 68102  
P.O. Box 542033  
Omaha, NE 68154  
Phone: 877 688-ARCH (2724)  
Fax: 866 266-3630  
Email: [Claims@ArchInsurance.com](mailto:Claims@ArchInsurance.com)

You will be contacted by a representative of the company's Claim Department. This representative will confirm receipt of the loss notice directly to you, provide a company claim number for all future correspondence, refer to an adjuster if necessary, and discuss further handling of the claim.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**TOTAL TERRORISM EXCLUSION**

This endorsement modifies insurance provided under the Policy.

- A.** The following definition is added and applies under this endorsement whenever the term terrorism, is enclosed in quotation marks:

“Terrorism” means activities against persons, organizations or property of any nature:

1. that involve the following or preparation for the following:
  - a. use or threat of force or violence; or
  - b. commission or threat of a dangerous act; or
  - c. commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
2. When:
  - a. the effect is to intimidate or coerce a government or a civilian population or any segment thereof, or to disrupt any segment of the economy; and/or
  - b. it appears that the intent is to intimidate or coerce a government or a civilian population, or to further a philosophical, political, ideological, religious, social or economic objective or to express (or express opposition to) a philosophical, political, ideological, religious, social or economic objective.

- B.** The following exclusion is added:

**EXCLUSION OF TERRORISM**

We (the Company) will not pay for loss or damage caused directly or indirectly by “terrorism”, including action in hindering or defending against an actual or expected incident of “terrorism”. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such loss or damage.

This exclusion also applies when one or more of the following are attributed to an incident of “terrorism”:

1. The “terrorism” is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
2. Radioactive material is released, and it appears that one purpose of the “terrorism” was to release such material; or
3. The “terrorism” involves the use, release, or escape of nuclear materials, or that directly or indirectly results in nuclear reaction, nuclear radiation or radioactive contamination; or
4. The “terrorism” is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or



5. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials.

**C. Application Of Other Exclusions**

1. When the EXCLUSION OF TERRORISM applies in accordance with the terms of **B.1.**, **B.2.** or **B.3.**, such exclusion applies without regard to the Nuclear Hazard Exclusion in this Coverage Form, Coverage Part or Policy.
2. The EXCLUSION OF TERRORISM contained in this Endorsement replaces any terrorism exclusion contained in this Coverage Form, Coverage Part or Policy.
3. The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss or damage which would otherwise be excluded under this Coverage Form, Coverage Part or Policy, such as losses excluded by the Nuclear Hazard Exclusion, War Exclusion, or the War And Military Action Exclusion.

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 3

Policy Number: ESP1047915-00

Named Insured: Noel Management Company, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: September 29, 2023

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

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

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

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

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

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

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

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**OCCURRENCE LIMIT OF LIABILITY ENDORSEMENT**

This endorsement modifies insurance provided under this policy.

It is agreed that the following special terms and conditions apply to this policy:

1. The DEFINITIONS Section of the policy and any forms or endorsements attached thereto are amended by the addition of the following Definition:

“Occurrence” shall mean any one loss, disaster, casualty or series of losses, disasters or casualties, arising out of one event. The duration and extent of any one loss, disaster, casualty or series of losses, disasters or casualties will be limited to all losses or series of losses occurring during any period of 168 consecutive hours arising out of, and directly occasioned by, the same event.

When the term applies to loss or series of losses from the perils of tornado, cyclone, hurricane, windstorm, hail, flood, earthquake, volcanic eruption, riot, riot attending a strike, civil commotion, and vandalism and malicious mischief, one event shall be construed to be all losses arising during a continuous period of 72 hours. When filing proof of loss, you may elect the moment at which the 72 hour period shall be deemed to have commenced, which shall not be earlier than when the first loss occurs to any Covered Property.

2. The premium for this policy is based upon the Statement of Values on file with us, or attached to this policy. In the event of loss hereunder, our liability, subject to the terms of paragraph 3. below, shall be limited to the least of the following:
  - a. The actual adjusted amount of loss, less applicable deductible(s).
  - b. 100% of the individually stated value for each scheduled item of interest insured, as shown on the latest Statement of Values on file with us, or attached to this policy, after applying the deductible(s).
  - c. The Limit of Liability or Amount of Insurance shown on the Declarations Page or endorsed onto this policy.
3. The Limit of Liability or Amount of Insurance shown on the Declarations Page of this policy, or endorsed onto this policy, is the total limit of our liability applicable to each “occurrence”. Notwithstanding any other terms and conditions of this policy, in no event shall our liability exceed this limit or amount, irrespective of the number of locations involved.

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 4

Policy Number: ESP1047915-00

Named Insured: Noel Management Company, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: September 29, 2023

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**EXCLUSION AND LIMITED ADDITIONAL COVERAGE FOR FUNGUS**

This endorsement modifies insurance provided under this policy.

- A.** The following item is added to **EXCLUSIONS**, section **B**. With respect to the loss or damage addressed therein, this exclusion supersedes any other exclusion which addresses fungus.

**EXCLUSION – “Fungus”, Wet Rot, Dry Rot And Bacteria**

We will not pay for loss or damage caused directly or indirectly by the presence, growth, proliferation, spread or any activity of “fungus”, wet or dry rot or bacteria. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

But if “fungus”, wet or dry rot or bacteria results in:

1. A “specified cause of loss”, we will pay for the loss or damage caused by that “specified cause of loss”, if the Causes of Loss – Special Form applies; or
2. A “covered cause of loss”, we will pay for the loss or damage caused by that “covered cause of loss”, if the Causes of Loss – Basic Form and Causes of Loss – Broad Form applies.

This exclusion does not apply:

1. When “fungus”, wet or dry rot or bacteria results from fire or lightning; or
2. To the extent that coverage is provided in the Additional Coverage – Limited Coverage For “Fungus”, Wet Rot, Dry Rot And Bacteria with respect to loss or damage by a cause of loss other than fire or lightning.

- B.** The following exclusion replaces any exclusion pertaining to continuous or repeated seepage or leakage of water; and supersedes any other exclusion, preclusion of coverage or exception to an exclusion pertaining to leakage or discharge of water or steam from a system or appliance.

We will not pay for loss or damage caused by or resulting from continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.

- C.** The following item is added to **ADDITIONAL COVERAGES**:

**ADDITIONAL COVERAGE – Limited Coverage For “Fungus”, Wet Rot, Dry Rot And Bacteria**

1. This limited coverage applies only when the “fungus”, wet or dry rot or bacteria are the result of one or more of the following causes that occur during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that “occurrence”, and only if any loss resulting from the following is reported to us within 60 days of the “occurrence”:
  - a. A “specified cause of loss” other than fire or lightning; or
  - b. Flood, if the Flood Coverage Endorsement applies to the affected premises.

This Additional Coverage does not apply to lawns, trees, shrubs or plants which are a part of a vegetated roof.

2. Under conditions described in item **A.1.** above, we will pay for loss or damage by “fungus”, wet or dry rot or bacteria. As used in this Limited Coverage, the term loss or damage means:
- Direct physical loss or damage to Covered Property caused by “fungus”, wet or dry rot or bacteria, including the cost of removal of the “fungus”, wet or dry rot or bacteria;
  - The cost to tear out and replace any part of the building or other property as needed to gain access to the “fungus”, wet or dry rot or bacteria; and
  - The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that “fungus”, wet or dry rot or bacteria are present.
3. The coverage provided under this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all “occurrences” which take place in a 12-month period (starting with the beginning of the present annual policy period). With respect to a particular “occurrence” of loss which results in “fungus”, wet or dry rot or bacteria, we will not pay more than a total of \$15,000 even if the “fungus”, wet or dry rot or bacteria continue to be present or active, or recur, in a later policy period.
4. The coverage provided under this Limited Coverage is a sub-limit and does not increase the applicable Limit of Insurance on any Covered Property. If a particular “occurrence” results in loss or damage by “fungus”, wet or dry rot or bacteria, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.
- If there is covered loss or damage to Covered Property, not caused by “fungus”, wet or dry rot or bacteria, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that “fungus”, wet or dry rot or bacteria causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.
5. The terms of this Limited Coverage do not increase or reduce the coverage provided under paragraph **F.2.** (Water Damage, Other Liquids, Powder Or Molten Material Damage) of this Causes of Loss form or under the Additional Coverage – Collapse.
6. The following **6.a.** or **6.b.** applies only if Business Income and/or Extra Expense coverage applies to the described premises and only if the “suspension” of “operations” satisfies all terms and conditions of the applicable Business Income and/or Extra Expense Coverage form.
- If the loss which resulted in “fungus” wet or dry rot or bacteria does not in itself necessitate a “suspension” of “operations”, but such “suspension” is necessary due to loss or damage to property caused by “fungus”, wet or dry rot or bacteria, then our payment under Business Income and/or Extra Expense is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
  - If a covered “suspension” of “operations” was caused by loss or damage other than “fungus”, wet or dry rot or bacteria but remediation of “fungus”, wet or dry rot or bacteria prolongs the “period of restoration”, we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the “period of restoration”), but such coverage is limited to 30 days. The days need not be consecutive.

**D.** The following item is added to **DEFINITIONS**:

“Fungus” means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.

**E.** Item **d.2.** under section **2.** of the **EXCLUSIONS** is amended to read:

“Rust, corrosion, decay, deterioration, hidden or latent defect or quality in property that causes it to damage or destroy itself”.

All other terms and conditions of this Policy remain unchanged.

Endorsement Number: 5

Policy Number: ESP1047915-00

Named Insured: Noel Management Company, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: September 29, 2023

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ELECTRONIC DATA LOSS OR DAMAGE - EXCLUSION**

This endorsement modifies insurance provided under this policy.

**A.** It is agreed that the following definitions apply:

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

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

**B.** Except as provided in the Additional Coverage – Electronic Data, if any, the following exclusion applies:

**Damage to Electronic Data**

We will not pay for loss, destruction, distortion, erasure, corruption, deletion, manipulation or alteration of or damage to “Electronic Data” including loss of use, reduction in functionality, or any cost or expense to replace or restore such “Electronic Data” from any cause whatsoever (including, but not limited to, “Computer Virus” or a willful or malicious act).

This exclusion applies regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

However, this exclusion does not apply to loss, destruction, distortion, erasure, corruption, deletion, manipulation or alteration of or damage to “Electronic Data” arising from the following specified causes of loss, if these causes of loss are not otherwise excluded: fire, lightning, explosion, windstorm or hail, strike, riot or civil commotion, leakage from fire extinguishing equipment, impact or collapse. However, this exception does not apply to fire or explosion resulting from risks excluded under any terrorism exclusion.

**C.** Except as provided in the Additional Coverage – Interruption Of Computer Operations, if any, the following is added to the Business Income and/or Extra Expense Coverage, as applicable:

**Additional Limitation – Interruption Of Computer Operations**

We will not pay for:

1. Business Income loss incurred when a “suspension” of “operations” is caused by loss, destruction, distortion, erasure, corruption, deletion, manipulation or alteration of or damage to “Electronic Data” from any cause whatsoever (including, but not limited to, “Computer Virus” or a willful or malicious act).
2. Extra Expense loss incurred when action is taken to avoid or minimize a “suspension” of “operations” caused by loss, destruction, distortion, erasure, corruption, deletion, manipulation

or alteration of or damage to "Electronic Data" from any cause whatsoever (including, but not limited to, "Computer Virus" or a willful or malicious act).

This limitation applies regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

However, this limitation will not apply to loss, destruction, distortion, erasure, corruption, deletion, manipulation or alteration of or damage to "Electronic Data" arising from the following specified causes of loss, if these causes of loss are not otherwise excluded: fire, lightning, explosion, windstorm or hail, strike, riot or civil commotion, leakage from fire extinguishing equipment, impact or collapse. However, this exception does not apply to fire or explosion resulting from risks excluded under any terrorism exclusion.

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 6

Policy Number: ESP1047915-00

Named Insured: Noel Management Company, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: September 29, 2023



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ASBESTOS MATERIAL REMOVAL LIMITATION**

This endorsement modifies insurance provided under this policy.

It is agreed that:

**ASBESTOS MATERIAL REMOVAL LIMITATION**

This policy excludes any loss, damage or expense to remove or replace asbestos materials unless such materials are themselves damaged by a Covered Cause of Loss.

Notwithstanding that competent Government Authority may declare all or parts of the insured premises unfit for occupancy without removal or modifications to asbestos materials, our liability is limited to the proportion represented by the cost to repair the damaged part of the premises, not the entire property.

Similarly, if the policy provides any coverage for business income, extra expense, loss of rents or rental value or other loss of use or occupancy, such coverage shall be limited to the time necessary to repair or replace only the damaged portion(s) of the premises.

Nothing in this Endorsement shall override any radioactive contamination exclusion clause in the Policy to which this Endorsement is attached.

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 7

Policy Number: ESP1047915-00

Named Insured: Noel Management Company, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: September 29, 2023

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA**

This endorsement modifies insurance provided under this policy.

It is agreed that:

**EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA**

1. The exclusion set forth in Paragraph 2. applies to all coverages under all forms and endorsements that comprise this policy, including but not limited to forms or endorsements that cover property damage to buildings or personal property and forms or endorsements that cover business income, extra expense or action of civil authority.
2. We will not pay for loss or damage caused by or resulting from any virus, bacterium or other micro-organism that induces or is capable of inducing physical distress, illness or disease. However, this exclusion does not apply to loss or damage caused by or resulting from "fungus", wet rot or dry rot. Such loss or damage is addressed in a separate exclusion in this policy.
3. With respect to any loss or damage subject to the exclusion in Paragraph 2., such exclusion supersedes any exclusion relating to "pollutants".
4. The following provisions in this policy are hereby amended to remove reference to bacteria:
  - (a) EXCLUSION – "Fungus", Wet Rot, Dry Rot And Bacteria;
  - (b) ADDITIONAL COVERAGE – Limited Coverage For "Fungus", Wet Rot, Dry Rot And Bacteria, Including any endorsement increasing the scope or amount of coverage.

The terms of the exclusion in Paragraph 2., or the inapplicability of this exclusion to a particular loss, do not serve to create coverage for any loss that would otherwise be excluded under this policy.

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 8

Policy Number: ESP1047915-00

Named Insured: Noel Management Company, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: September 29, 2023

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**APPRAISAL**

This endorsement modifies insurance provided under all Coverage Parts.

This endorsement replaces any and all other provisions regarding appraisal.

If we and you disagree on the value of the property or the amount of loss, either party may request, in writing, an appraisal of the value of the property and/or the amount of loss. You cannot make such request unless: (i) you have fully complied with all provisions of this policy; and (ii) we have received a signed and sworn proof of loss from you identifying the total amount being claimed under the policy along with detailed amounts for each type of coverage being claimed including but not limited to real property, personal property, stock, contents, debris removal, business income, extra expense, ordinance or law, and any other additional coverage a claim is being made.

An appraisal may then take place only if the other party agrees in writing to participate in the appraisal process pursuant to terms of a written agreement between the parties. At a minimum, such written agreement will specify a protocol for:

- (i) the selection of a disinterested, competent and impartial appraiser who does not have any financial interest in the claim or appraisal award, including any contingent interest in the outcome of the claim or appraisal award;
- (ii) the inspection of the property by the appraisers;
- (iii) the selection of an umpire;
- (iv) communications between and among the appraisers and umpire;
- (v) specific itemization of each item of property and business income in dispute, allocated building-by-building, floor-by-floor, unit-by-unit, and/or area-by-area or as otherwise agreed; and
- (vi) an award form.

If the parties cannot agree on a written agreement specifying the protocol within 30 days, an appraisal will not take place.

If the appraisal moves forward, the two appraisers will select a disinterested, competent and impartial umpire who does not have any financial interest in the claim or appraisal award, including any contingent interest in the outcome of the claim or appraisal award.

If the two appraisers cannot agree on an umpire within 15 days of either appraiser proposing one or more umpires, the two appraisers may jointly request that a judge of a court in the county of the loss or damage select a disinterested, competent and impartial umpire who does not have any financial interest in the claim or appraisal award, including any contingent interest in the outcome of the claim or appraisal award.

If either party to the appraisal, without notice to the other party, asks a judge to select an umpire, any such selection shall be invalidated and the selection of a new umpire shall be required. If the appraisers do not jointly agree to request the appointment of an umpire, either you or we can unilaterally end the appraisal upon written notice to the other.

Each appraiser will independently state, in accordance with the terms and conditions of this policy, the actual cash value and replacement cost value for each item of damaged real and personal property as well as any other disputed amounts as required by the written appraisal agreement.

If the appraisers fail to agree, they will submit their differences to the umpire and any agreement in the amount of loss between the umpire and either appraiser will be binding.

Each party will pay its chosen appraiser and will equally bear all other expenses of the appraisal and umpire.

In connection with the appraisal proceeding, neither the appraisers nor the umpire shall have authority to decide questions of law. Neither the appraisers nor the umpire shall attempt to resolve any issue of insurance coverage, policy exclusions, compliance with the policy terms and conditions, or any issues concerning any limits of insurance available under the Policy.

A demand for an appraisal does not relieve you of your continuing obligation to comply with the terms and conditions of this policy, including all requirements outlined in event of a loss. We may require completion of any of your duties, responsibilities or requirements of this policy prior to continuance of the appraisal proceeding. We will not be held to have waived any of our rights by any act relating to appraisal, including our right to deny a claim in whole or in part.

Where applicable, the parties agree that during the pendency of an appraisal all required responses and cures to any Civil Remedy Notices are extended until 30 days after the appraisal is concluded.

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 9

Policy Number: ESP1047915-00

Named Insured: Noel Management Company, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: September 29, 2023

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**AUTHORITIES EXCLUSION**

This endorsement modifies insurance provided under this policy.

It is agreed that:

**AUTHORITIES EXCLUSION**

This policy does not insure against loss, damage, costs, expenses, fines or penalties incurred or sustained by or imposed on the insured at the order of any government agency, court or other authority arising from any cause whatsoever.

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 10

Policy Number: ESP1047915-00

Named Insured: Noel Management Company, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: September 29, 2023

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**POLLUTION AND CONTAMINATION EXCLUSION ENDORSEMENT**

Notwithstanding any other provisions to the contrary in the policy to which this endorsement is attached, it is agreed that:

This policy does not cover any loss, damage, cost or expense caused by, resulting from, contributed to or made worse by actual, suspected, alleged or threatened presence, discharge, dispersal, seepage, migrations, introduction, release or escape of "Pollutants or Contaminants", all whether direct or indirect, proximate or remote or in whole or in part caused by, contributed to or aggravated by any physical damage insured by this policy, except as specifically referenced below.

Nevertheless, if a fire or explosion arises directly or indirectly from "Pollutants or Contaminants", any loss or damage insured under this policy arising directly from the fire or explosion is insured, subject to the provisions of this policy.

"Pollutants or Contaminants" means any material, whether solid, liquid, gaseous or otherwise, which can cause or threaten damage to human health or human welfare or causes or threatens damage, deterioration, loss of value, marketability or loss of use to property insured hereunder. "Pollutants or Contaminants" include, but are not limited to, foreign substances, impurities, hazardous materials, poisons, toxins, pathogens or pathogenic organisms, bacteria, virus, and any disease causing or illness causing agents.

However, this exclusion shall not apply to loss or damage directly caused by fire, lightning, aircraft impact, explosion, riot, civil commotion, vehicle impact, windstorm, hail, vandalism or accidental discharge from automatic fire protective systems.

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 11

Policy Number: ESP1047915-00

Named Insured: Noel Management Company, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: September 29, 2023

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**COSMETIC DAMAGE TO ROOF SURFACING EXCLUSION ENDORSEMENT**

It is agreed that:

- A. We will not pay for "cosmetic damage" to any "roof surfacing" on any covered building or structure described in this policy that is caused by wind and/or hail.
- B. For the purpose of this endorsement, "cosmetic damage" means that the wind and/or hail caused marring, pitting or other superficial damage that altered the appearance of the roof surfacing, but such damage does not prevent the roof from continuing to function as a barrier to entrance of the elements to the same extent as it did before the cosmetic damage occurred.
- C. For the purpose of this endorsement, "roof surfacing" means roofs, roof coatings, roof canopies, the shingles, tiles, cladding, metal or synthetic sheeting, sheathing, decking or similar materials or components covering the roof or used in conjunction with a roof's construction or re-covering and includes, but is not limited to, any material used in securing the roof surface and any material applied to or under the roof surface for moisture protection, membrane or insulation, as well as roof flashing.

All other terms and conditions of this Policy remain unchanged.

Endorsement Number: 12

Policy Number: ESP1047915-00

Named Insured: Noel Management Company, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: September 29, 2023

  
President

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**PRE-EXISTING DAMAGE EXCLUSION**

This endorsement modifies insurance provided under this policy.

It is agreed that this policy does not cover any loss or damage directly or indirectly caused by, resulting from or contributed to by any pre-existing property damage.

All other terms and conditions of this Policy remain unchanged.

Endorsement Number: 13

Policy Number: ESP1047915-00

Named Insured: Noel Management Company, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: September 29, 2023



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

Roof Surfacing Valuation Limitation Endorsement

It is agreed that:

- A. With respect to loss or damage by a Covered Cause of Loss (including wind and hail if covered) to any covered building or structure described in this policy, Replacement Cost Coverage (if otherwise applicable to such property) does not apply to "roof surfacing" if the roof is determined to be over 15 years old. Instead, we will determine the value of "roof surfacing" at actual cash value as of the time of loss or damage.
- B. For the purpose of this endorsement, "roof surfacing" means roofs, roof coatings, roof canopies, the shingles, tiles, cladding, metal or synthetic sheeting, sheathing, decking or similar materials or components covering the roof or used in conjunction with a roof's construction or re-covering and includes, but is not limited to, any material used in securing the roof surface and any material applied to or under the roof surface for moisture protection, membrane or insulation, as well as roof flashing.

All other terms and conditions of this Policy remain unchanged.

Endorsement Number: 14

Policy Number: ESP1047915-00

Named Insured: Noel Management Company, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: September 29, 2023

  
President

**ARCH INSURANCE COMPANY**

(A Missouri Corporation)

Home Office Address:  
2345 Grand Blvd Suite 900  
Kansas City, MO 64108

Administrative Address:  
Harborside 3  
210 Hudson Street, Suite 300  
Jersey City, NJ 07311-1107  
Tel: (866) 413-5550

**EXCESS PHYSICAL DAMAGE SCHEDULE**

NAMED INSURED:	Noel Management Company, Inc.
POLICY NUMBER:	ESP1047915-00
ADDRESS(ES) OF INSURED PREMISES:	As per schedule of locations and values on file with the company
PERIL(S) COVERED:	"All Risks" of Direct Physical Loss or Damage Excluding Flood and Earthquake subject to policy terms, conditions, and exclusions
PROPERTY COVERED:	Real Property Business Personal Property Business Income Other Property
OUR LIMIT/PARTICIPATION IN EXCESS OF THE DEDUCTIBLE/RETENTION: \$5,000,000 Per Occurrence Excess of \$10,000,000 Per Occurrence	
CONTROLLING UNDERLYING INSURANCE/FOLLOWED POLICY (INSURER AND POLICY NUMBER): Third Coast Insurance Company PROP-SUM3-001426-23	
EXCEPTIONS TO THE CONTROLLING UNDERLYING POLICY:  PER ENDORSEMENT(S) ATTACHED, IF ANY: Conditions, limitations, and exclusions provided under Arch Specialty Insurance Company.	

## **EXCESS PROPERTY FOLLOWING FORM COVERAGE PART**

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

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **G – DEFINITIONS**.

In consideration of the payment of premium, upon the statements in the Declarations and Schedules made apart hereof and subject to all the terms of the policy, we agree with you as follows:

### **A. INSURING AGREEMENT**

We agree to indemnify you for an “insured loss” in excess of, and after, the “underlying insurance” have paid or admitted liability for the full amount of their policy limits of liability. Except for the Limit/Participation provision, and the terms, conditions, definitions, exclusions and limitations contained in this policy, the coverage provided by this policy shall follow the terms, conditions, definitions, exclusions and limitations of the “controlling underlying insurance”. It is agreed that any Exceptions to the “controlling underlying insurance” attached to the Physical Damage Schedule take precedence in the event of any conflict with the “controlling underlying insurance”. For this policy to apply, the “insured loss” must occur during the Policy Period of this policy as shown on the Declarations. We will not pay for any loss or damage if the cause of such loss or damage is already in progress at the date and time the Policy Period begins or, if later, the effective date when coverage is added.

### **B. LIMIT/PARTICIPATION PROVISION**

The Limit/Participation is shown on the Declarations, Schedule(s), forms or endorsements attached to this policy. Our Limit/Participation for an “insured loss” arising from any one “occurrence” is in excess of the sum of deductibles, self insured retentions and the limits of liability of the “underlying insurance”. If this policy covers more than one location, the Limit/Participation provision shall apply to the total “insured loss” to all locations insured under this policy in any one “occurrence”.

Our Limit/Participation for an “insured loss” is further limited by any:

1. Deduction required by any coinsurance provisions in the “controlling underlying insurance”; and
2. Waiting period(s) or time limits contained in the “controlling underlying insurance”.

This policy may also contain sub-limits, as specified on the Schedule or on the various forms and endorsements attached to this policy or the “controlling underlying insurance”. These sub-limits are part of and not in addition to the Limit/Participation provision of this policy. We shall not be liable under any sub-limited coverage, extension, endorsement or coverage part for more than the sub-limit specified for such sub-limited coverage, extension, endorsement or coverage part or our percentage proportionate share as described in the Schedule.

If the sub-limit for any coverage is specified as an annual aggregate, such sub-limit shall apply in the aggregate for all losses, insured under such coverage, occurring during the Policy Period. If the Policy Period is greater than twelve (12) months, such sub-limit shall apply in the aggregate to all losses occurring during the full term of the policy.

Payment for an “insured loss” with respect to one “occurrence” does not reduce the Limit/Participation applicable to any other “occurrence”, except for those specified perils to which an Aggregate Limit of Insurance applies under this policy. Where an Aggregate Limit applies, such amount shall be the maximum amount payable by us as respects all “insured loss” arising out of

such peril during the Policy Period of this policy as shown on the Declarations regardless of the number of "occurrences".

**C. REDUCTION OR EXHAUSTION OF UNDERLYING AGGREGATE LIMITS**

In the event of a reduction or exhaustion of an aggregate limit of liability in an "underlying insurance" solely due to losses actually paid thereunder with respect to the specified peril during the Policy Period of any "underlying insurance", we will pay in excess of the reduced or exhausted limit of liability. In the event this policy applies in excess of a reduced or exhausted Limit of Liability of any "underlying insurance" with respect to the specified peril, this policy will be subject to the same deductible or comparable insured retention provisions provided in any reduced or exhausted "underlying insurance".

**D. MAINTENANCE OF UNDERLYING INSURANCE**

The "underlying insurance" must be maintained in full force and effect during the entire Policy Period shown on the Declarations of this policy. Failure to comply will not invalidate this policy, but in the event of such failure to maintain "underlying insurance", we will only be liable to the same extent as we would be had the "underlying insurance" been maintained.

Such "underlying insurance" may, without prejudice to this insurance, be replaced or renewed by another policy or other policies issued by the same or other insurers, but such replacement or renewal policies shall be written under the same terms, exclusions, limitations and conditions as the replaced coverage.

You must notify us of any changes in the "underlying insurance". No changes are binding on us until we agree to changes in writing.

Should any alteration be made in the premium for the "underlying insurance", then the premium for this policy shall be adjusted accordingly.

**E. EXCLUSIONS**

The exclusions of the "controlling underlying insurance" apply to this policy unless exclusions contained in any form or endorsement to this policy are added to or replace such exclusions in the "controlling underlying insurance". We will not pay for loss, damage or expense consisting of, caused by, contributed to or aggravated by any peril, cause or event excluded by this policy or the "controlling underlying insurance", whichever applies. Any such loss, damage or expense is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss or damage.

**F. POLICY CONDITIONS**

**1. NOTICE OF "OCCURRENCE"**

Whenever you have knowledge of any "occurrence" which might result in a claim under the terms of this policy, written notice shall be sent to us as soon as practicable.

**2. APPLICATION OF RECOVERIES**

All salvages, recoveries or payments recovered or received subsequent to a loss settlement under this policy shall be applied as if recovered or received prior to such settlement, and all necessary adjustments shall then be made between you and us.

### **3. BANKRUPTCY OR INSOLVENCY**

- a. Bankruptcy or insolvency of you or of your estate will not relieve us of our obligations under this policy.
- b. In the event of the bankruptcy or insolvency, or other financial impairment, of any underlying insurer providing “underlying insurance”, we shall not be liable for the obligations of any such insurer. This insurance shall apply as if the “underlying insurance” were valid and collectible. This insurance shall not replace the “underlying insurance” under any circumstance and shall not drop down if limits of liability of the “underlying insurance” are reduced or exhausted or are not available or applicable because of the actual or alleged bankruptcy, insolvency, or financial impairment of such insurer,

### **4. CONCEALMENT AND FRAUD**

This policy will immediately become null and void if you have concealed or misrepresented any material fact or circumstance concerning this insurance.

### **5. OTHER INSURANCE**

This insurance is excess over other insurance whether primary, excess, contingent or on any other basis except other insurance purchased specifically to apply either on a proportionate basis with this insurance or in excess of this insurance.

### **6. DISCLOSURES AND REPRESENTATIONS**

By accepting this policy, you agree:

- a. All the statements in the Declarations and Schedules of this policy are accurate and complete;
- b. Those statements are based upon representations you made to the us; and
- c. We have issued this policy in reliance upon the representations by you or your representatives regarding the limits of liability, terms, exclusions, limitations and conditions of the “controlling underlying insurance”. If the Limit of Liability, terms, exclusions, limitations and conditions of the “controlling underlying insurance” materially differ or change from the Limit of Liability, terms, exclusions, limitations and conditions represented to us by you or your representatives and would result in broader coverage under this policy than is provided in the “controlling underlying insurance”, then the provisions of the “controlling underlying insurance” will apply, unless we agree otherwise in writing.

## **G. DEFINITIONS**

- 1. “Controlling underlying insurance” means the insurance policy identified by policy number and issued by the insurer designated in the Physical Damage Schedule as “controlling underlying insurance”.
- 2. “Insured loss” means direct physical loss or damage to the property described in the Schedule and if so designated on the Schedule as covered under this Policy related business interruption, loss of income, extra expense, rental value, and other specific time element extensions.

3. "Occurrence", wherever used in this policy, has the same meaning as defined in the "controlling underlying insurance". However, if the term is not defined in the "controlling underlying insurance", 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 loss or series of losses from the perils of tornado, cyclone, hurricane, windstorm, hail, flood, earthquake, volcanic eruption, riot, riot attending a strike, civil commotion, and vandalism and malicious mischief, one event shall be construed to be all losses arising during a continuous period of 72 hours. When filing proof of loss, you may elect the moment at which the 72 hour period shall be deemed to have commenced, which shall not be earlier than the first loss to any covered property occurs.
4. "Underlying insurance" means all insurance policies, including the "controlling underlying insurance", which provide the coverage over which this policy provides excess insurance subject to this policy's Limit/Participation provision.