<<COURT\_NAME>>

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| <<PROVIDER\_SUITNAME>>,  a/a/o <<INJUREDPARTY\_NAME>>    Plaintiff,  vs.  <<INSURANCECOMPANY\_SUITNAME>>  Defendant. | Case No. <<INDEXORAAA\_NUMBER>> |

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**AFFIDAVIT OF THOMAS L. PAINE, CIC**

Before me, the undersigned authority, personally appeared Thomas L. Paine, CIC, who was sworn and says:

I, Thomas L. Paine, CIC, being first sworn, depose and state:

1. My name is Thomas L. Paine, CIC and I am an expert in insurance policy interpretation and the custom and usage of policy language in the insurance industry.
2. I am over 18 years old, and this Affidavit is made and based on my own personal knowledge, experience and expertise.
3. I have been in the insurance industry since 1974 and have held Florida licenses in General Property & Casualty, Life & Health, Surplus Lines.
4. I previously held Non-Resident Property & Casualty licenses in Georgia, South Carolina, North Carolina, Louisiana, Alabama, Mississippi, Tennessee, Texas, and Virginia.
5. In the past 25 or more years I have been retained in over 100 insurance litigation cases by major domestic insurance companies and their legal counsel, as well as by private law firms, individuals and insurance agencies.
6. My consulting and testimony has involved coverage analysis, determination as to whether or not coverage(s) were in force at a particular time, application misrepresentation, subrogation, underinsurance or inadequate limits, improper, inadequate, or illegal company, agent, wholesaler and/or agency action(s) or advice, failure to procure/place coverage, coverage availability, contracts - including termination and contingency clause issues, insolvent carrier, misrepresentation, industry standards and customary practices, special relationships and other similar issues. When requested, errors and omissions seminars have been presented to individual agency principals, sales, and processing (CSR) staff.
7. In addition to my work experience, I have completed three or more years of required college courses in Business Administration at various institutions over the years.
8. I have received formal insurance education through Kemper Insurance Companies and the Florida Assn. of Ins. Agents. (FAIA).
9. I have also done continuing insurance education since 1977 at the intermediate or advanced level, accomplished through attendance at various schools and classes provided by the Florida Assn. of Ins. Agents (FAIA), Professional Ins. Agents (PIA), Florida Surplus Lines Assn. (FSLA) and the Society of Certified Insurance Counselors (CIC).
10. I have successfully completed two parts of CPCU, including the required written examinations.
11. I have reviewed over 1,500 insurance policies in my career.
12. I have drafted policy language for insurance companies and Lloyd’s of London relating to property and casualty policies of insurance.
13. I have provided numerous insurance coverage opinions for both insurance companies and insureds.
14. In preparation for my analysis of the subject policy of insurance, I reviewed over 55 insurance policies from at least 28 different carriers in which there was confirmed coverage and payment for engineering services.
15. I reviewed the policy language contained within those policies to determine the custom and usage of certain policy language in the insurance industry as it applies to the type engineering services performed by the Plaintiff in this claim.
16. I also reviewed a full and complete copy of the subject policy of insurance bearing policy number <<POLICY\_NUMBER>> which was assigned to <<INJUREDPARTY\_NAME>> and provided insurance coverage for the property located at <<INJUREDPARTY\_FULL\_ADDRESS>> on the date of loss.
17. In addition to the policy, I also reviewed the engineering report created by The Kidwell Group, LLC d/b/a Air Quality Assessors of Florida in relation to the above-referenced property and loss.
18. The subject policy of insurance is an HO-3 Special Form Homeowners Policy.
19. This type of policy is referred to in the industry as an “All-Risks” policy because it provides for coverage over all “sudden and direct physical loss” to the property subject to specific exclusions found within the policy.
20. The term “direct physical loss” specifically refers to the physical damage sustained to the property by a “peril” or cause of loss.
21. Therefore in the insurance industry the “date of loss” refers to the date when the property suffered physical damage from a peril and not when services relating to the loss were performed in relation to that physical damage.
22. Like the policies in which engineering was covered the subject policy of insurance does not enumerate all the types of services which are covered or compensable under the policy of insurance.
23. The policy does not specifically provide a list of covered services such as roofing, carpentry, painting, engineering, or general contracting.
24. Like the policies in which engineering was covered the subject policy of insurance does provide in its loss settlement provisions the payment of “replacement costs” and “costs to repair or replace.”
25. The terms “replacement costs” and “costs to repair or replace” are not defined in the subject policy; however, from the policies I have analyzed and the 40 years of experience in the industry, I have determined that the terms encompass all costs reasonably incurred to repair or replace damage property to its pre-existing condition; including but not limited to contractors, tradesmen, material costs, permit fees, taxes, delivery fees, architects and engineers, etc.
26. In addition to the Loss Settlement provision, the additional coverage which discusses reasonable emergency services provides coverage for services which would help prevent against further damage to the property such as an engineering report which sets out the specific repairs that would need to be completed to prevent against further damage to the property.
27. Furthermore, there are post-loss conditions within the subject policy which require the Insured to identify the cause and origin of the loss and the scope of the damages.
28. The engineering report by Air Quality Assessors of Florida would certainly assist the Insured in complying with its post-loss conditions.
29. A review of the subject policy revealed that the operative language of the policy was identical to the policy language contained within the policies of insurance I reviewed where engineering services were covered and paid for.
30. There was no specific exclusion of coverage for engineering services found within the subject policy of insurance.
31. Here, the Kidwell Group, LLC d/b/a Air Quality Assessors of Florida provided engineering services directly relating to the direct physical loss sustained at the subject property.
32. The report identified and documented the visible damage to the property associated with the loss and made recommendations as to its repair or replacement.
33. This type of report is used by Insureds and/or their contractors to repair, replace and restore the property to its pre-loss condition, and as such would constitute a cost of repair or replacement under the subject policy of insurance.
34. This report is also used to determine what repairs should be done to prevent further damage which would constitute a reasonable emergency service.
35. It is my expert opinion that the services performed by The Kidwell Group, LLC d/b/a Air Quality Assessors of Florida are covered and compensable under the subject policy of insurance under the loss settlement provision and the additional coverage for reasonable emergency services.

AFFIANT FURTHER SAYETH NAUGHT.

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Thomas Paine

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Dated

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_\_\_\_\_\_

Notary Certificate

BEFORE ME, the undersigned authority, on this day appeared [ ] in person, [ ] electronically, Thomas Paine, who is either personally known to me or produced the following identification: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and who first being duly sworn, deposes and says that after reading the foregoing, that the contents thereof are true and correct.

SWORN TO AND SUBSCRIBED before me on: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

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Notary Public

My Commission expires: