

|                                 |   |                            |
|---------------------------------|---|----------------------------|
| <b>CIVIL ACTION COVER SHEET</b> | TRIAL COURT OF MASSACHUSETTS<br>SUPERIOR COURT DEPARTMENT | DOCKET NO. <u>15-13187</u> |
|                                 | COUNTY OF SUFFOLK   |                            |

|   |  |
|---|--|
| <b>PLAINTIFF(S)</b><br><b>LEXINGTON INSURANCE CO.</b> | <b>DEFENDANT(S)</b><br><b>AARON HERNANDEZ AND<br/>ALEXANDER S. BRADLEY</b> |
|---|--|

|   |                                       |
|---|---------------------------------------|
| Plaintiff Atty <u>William A. Schneider &amp; Gina M. Rappucci</u> | Type Defendant's Attorney Name _____  |
| Address <u>Morrison Mahoney LLP, 250 Summer Street</u>            | Defendant Atty _____                  |
| City <u>Boston</u> State <u>MA</u> Zip Code <u>02210</u>          | Address _____                         |
| Tel. <u>+1 (617) 439-7500</u> BBO# <u>636,421</u>                 | City _____ State _____ Zip Code _____ |

|          |  |       |   |
|----------|--|-------|---|
| CODE NO. | TYPE OF ACTION (specify)                                   | TRACK | IS THIS A JURY CASE?  |
|          | <b>D13 Declaratory Judgment G L C 231A - Average Track</b> |       | <input checked="" type="radio"/> Yes <input type="radio"/> No |

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

| TORT CLAIMS<br>(Attach additional sheets as necessary)                                       |  |                 |
|--|--|-----------------|
| A. Documented medical expenses to date:  |  |                 |
| 1. Total hospital expenses   |  |                 |
| 2. Total doctor expenses   |  |                 |
| 3. Total chiropractic expenses   |  |                 |
| 4. Total physical therapy expenses   |  |                 |
| 5. Total other expenses (describe)   |  |                 |
| B. Documented lost wages and compensation to date  |  |                 |
| C. Documented property damages to date   |  |                 |
| D. Reasonably anticipated future medical expenses  |  |                 |
| E. Reasonably anticipated lost wages and compensation to date                                |  |                 |
| F. Other documented items of damages (describe)  |  |                 |
| G. Brief description of plaintiff's injury, including nature and extent of injury (describe) |  |                 |
|  |  | <b>Subtotal</b> |
|  |  | <b>Total \$</b> |

|   |                |
|---|----------------|
| <b>CONTRACT CLAIMS</b><br>(Attach additional sheets as necessary)   |                |
| Provide a detailed description of claim(s):   |                |
| <u>Lexington seeks a judicial determination of the respective rights of the parties under a homeowners' insurance policy.</u> |                |
| <b>TOTAL</b>  | <b>\$.....</b> |

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods.<sup>9</sup>

Signature of Attorney of Record [Signature] Date: May 1, 2015

A.O.S.C. 3-2007

# CIVIL ACTION COVER SHEET INSTRUCTIONS

## SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE

### \* CONTRACTS

A01 Services, Labor and Materials (F)  
 A02 Goods Sold and Delivered (F)  
 A03 Commercial Paper (F)  
 A08 Sale or Lease of Real Estate (F)  
 A12 Construction Dispute (A)  
 A99 Other (Specify) (F)  
 E03 Claims against Commonwealth (A)  
 or Municipality

### \*TORT

B03 Motor Vehicle Negligence (F)  
 personal injury/property damage  
 B04 Other Negligence- (F)  
 personal injury/property damage  
 B05 Products Liability (A)  
 B06 Malpractice-Medical (A)  
 B07 Malpractice-Other (Specify) (A)  
 B08 Wrongful Death, G.L. c.229, s.2A (A)  
 B15 Defamation (Libel-Slander) (A)  
 B19 Asbestos (F)  
 B20 Personal Injury- slip & fall (F)  
 B21 Environmental (F)  
 B22 Employment Discrimination (F)  
 B99 Other (Specify) (F)  
 E03 Claims against Commonwealth (A)

### \* REAL PROPERTY

C01 Land Taking (eminent domain) (F)  
 C02 Zoning Appeal, G.L. c.40A (F)  
 C03 Dispute concerning title (X)  
 C04 Foreclosure of mortgage (X)  
 C05 Condominium Lien & Charges (F)  
 C99 Other (Specify) (A)  
 E03 Claims against Commonwealth  
 or Municipality

### EQUITABLE REMEDIES

D01 Specific Performance of Contract (A)  
 D02 Reach and Apply (F)  
 D06 Contribution or Indemnification (F)  
 D07 Imposition of a Trust (A)  
 D08 Minority Stockholder's Suit (A)  
 D10 Accounting (F)  
 D12 Dissolution of Partnership (A)  
 D13 Declaratory Judgment G.L. c. 231A (F)  
 D99 Other (Specify)

### MISCELLANEOUS

E02 Appeal from Administrative Agency G.L. c. 30A (X)  
 E03 Claims against Commonwealth or Municipality (A)  
 E05 Confirmation of Arbitration Awards (X)  
 E07 G.L. c.112, s.12S (Mary Moe) (X)  
 E08 Appointment of Receiver (X)  
 E09 General Contractor bond, G.L. c. 149, ss. 29, 29a (A)  
 E11 Worker's Compensation (X)  
 E12 G.L.c.123A, s.12 (SDP Commitment) (X)  
 E14 G.L. c. 123A, s. 9 (SDP Petition) (X)  
 E15 Abuse Petition, G. L. c. 209A (X)  
 E16 Auto Surcharge Appeal (X)  
 E17 Civil Rights Act, G.L. c.12, s. 11H (X)  
 E18 Foreign Discovery Proceeding (X)  
 E19 Sex Offender Registry G.L. c. 178M, s. 6 (X)  
 E21 Protection from Harassment c 258E (X)  
 E25 Plural Registry (Asbestos cases) (X)  
 E95 \*\*Forfeiture G.L. c. 94C, s. 47 (X)  
 E96 Prisoner Cases (X)  
 E97 Prisoner Habeas Corpus (X)  
 E99 Other (Specify)

\*Claims against the Commonwealth or a municipality are type E03, Average Track, cases.  
 \*\*Claims filed by the Commonwealth pursuant to G L c 94C, s 47 Forfeiture cases are type E95, Fast track.

TRANSFER YOUR SELECTION TO THE FACE SHEET.

EXAMPLE:

| CODE NO. | TYPE OF ACTION (SPECIFY)                 | TRACK | IS THIS A JURY CASE? |
|----------|--|-------|----------------------|
| B03      | Motor Vehicle Negligence-Personal Injury | (F)   | [ X ] Yes [ ]        |

### SUPERIOR COURT RULE 29

**DUTY OF THE PLAINTIFF.** The plaintiff or his/her counsel shall set forth, on the face sheet (or attach additional sheets as necessary), a statement specifying in full and itemized detail the facts upon which the plaintiff then relies as constituting money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served on the defendant together with the complaint. If a statement of money damages, where appropriate is not filed, the Clerk-Magistrate shall transfer the action as provided in Rule 29(5)(C).

**DUTY OF THE DEFENDANT.** Should the defendant believe the statement of damages filed by the plaintiff in any respect inadequate, he or his counsel may file with the answer a statement specifying in reasonable detail the potential damages which may result should the plaintiff prevail. Such statement, if any, shall be served with the answer.

A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT.

FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY  
 MAY RESULT IN DISMISSAL OF THIS ACTION.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
CIVIL ACTION NO:

15-1318A

LEXINGTON INSURANCE COMPANY,

Plaintiff,

v.

AARON HERNANDEZ AND  
ALEXANDER S. BRADLEY.

Defendants.

2015 MAY -4 PM 12:47  
MICHAEL J. J. J. J.  
CLERK/MAJ. J. J. J.

**COMPLAINT FOR DECLARATORY RELIEF**

The plaintiff, Lexington Insurance Company, by and through its attorneys, brings this Complaint For Declaratory Judgment pursuant to M.G.L. c. 231A § 1 and Rule 57 of the Massachusetts Rules of Civil Procedure. Lexington seeks a judicial determination of the respective rights of the parties under a homeowners' insurance policy.

**THE PARTIES**

1. Plaintiff, Lexington Insurance Company ("Lexington"), is an insurance company incorporated in Delaware and with its principal place of business in Boston, Massachusetts.
2. Defendant, Aaron Hernandez ("Hernandez"), is an individual currently incarcerated in Massachusetts.
3. Defendant, Alexander Bradley ("Bradley"), is an individual currently incarcerated in Connecticut.

### THE INSURANCE POLICY

4. Lexington issued a homeowner's policy to Hernandez, a true and complete copy of which is attached as Exhibit A.

5. The homeowner's policy was in effect from November 15, 2012 to November 15, 2013.

6. The policy defines the term "occurrence" to mean "an **accident** [. . .] which results, during the policy period, in [. . .] 'Bodily injury' [. . .]." Exhibit A at 2 (emphasis added).

7. The policy defines the term "bodily injury" to mean "bodily harm, sickness or disease, including required care, loss of services and death that results." Exhibit A at

1.

8. Paragraph A ("Coverage E – Duties After 'Occurrence'") of SECTION II – CONDITIONS of the policy states:

If a claim is made or a suit is brought against an 'insured' for damages because of 'bodily injury' [. . .] caused by an 'occurrence' to which this coverage applies, [Lexington] will:

[. . .]

2. Provide a defense at [Lexington's] expense by counsel of [Lexington's] choice [. . .]. [Lexington] may investigate and settle any claim or suit that [Lexington] decide[s] is appropriate. [. . .]

Exhibit A at 16.

9. Exclusion E(1) of the policy, as amended by the policy's SPECIAL PROVISIONS endorsement number LEX 01 09 04 11, states that Coverage E, as described in Paragraph 12, above, does not apply to the following:

1. Expected or Intended Injury

**'Bodily injury' [. . .] which is reasonably expected or intended from the standpoint of "insured" even if the resulting 'bodily injury' [. . .]:**

- a. Is of a different kind, quality or degree than initially expected or intended; or
- b. Is sustained by a different person [. . .] than initially expected or intended.

The reasonable person standard applies even if the 'insured' lacked the mental capacity to formulate an intent or expectation."

Exhibit A, Special Provisions Endorsement LEX 01 09 04 11, at 2 (emphasis added).

10. Paragraph C ("Duties After 'Occurrence'") of SECTION II – CONDITIONS of the policy states that:

In case of an 'occurrence', you or another 'insured' will perform the following duties that apply. **We have no duty to provide coverage under this policy if your failure to comply with the following duties is prejudicial to us.** You will help us by seeing that these duties are performed:

1. **Give written notice to us or our agent as soon as is practical**, which sets forth:
  - a. The identity of the policy and the 'named insured' shown in the Declarations;
  - b. Reasonably available information on the time, place and circumstances of the 'occurrence'; and
  - c. Names and addresses of any claimants and witnesses;
2. **Cooperate with us in the investigation, settlement, or defense of any claim or suit;**
3. **Promptly forward to us every notice, demand, summons or other process relating to the 'occurrence';**
4. **At our request, help us:**

[. . .]

- c. **With the conduct of suits** and attend hearings and trials; and
- d. **To secure and give evidence** and obtain the attendance of witnesses; [. . .]

Exhibit A at 20-21 (emphasis added).

### **FACTUAL ALLEGATIONS**

11. On June 19, 2013, Bradley filed a civil Complaint against Hernandez in the United States District Court for the Southern District of Florida ("Complaint"), a true and complete copy of which is attached hereto as Exhibit B.

12. In his Complaint, Bradley alleges that, on or about February 13, 2013, Hernandez aimed a gun at Bradley and caused the gun to fire, resulting in substantial bodily injuries to Bradley.

13. In his Complaint, Bradley alleges that Hernandez's actions "were deliberate and with the intent [. . .] to cause harm to plaintiff."

14. In his Complaint, Bradley alleges that Hernandez's actions constitute gross negligence and an intentional tort.

15. On or about February 20, 2014, Lexington received a letter dated February 19, 2014 from Attorney Andrew Waks, counsel for Bradley, a true and complete copy of which is attached as Exhibit C.

16. In the February 19, 2014 letter, Attorney Waks informed Lexington of the alleged incident and Bradley's Complaint against Hernandez.

17. The February 19, 2014 letter from Mr. Waks is the first time Lexington received any notification or information whatsoever regarding the alleged February 13, 2013 incident and Bradley's Complaint against Hernandez.

18. Upon receiving Mr. Waks' February 19, 2014 letter, Lexington promptly began an investigation of the incident.

19. Despite the fact that the February 19, 2014, letter identified Attorney Stephen Gillman, counsel for Hernandez, as a copied recipient, neither Mr. Gillman nor anyone else acting on Hernandez's behalf contacted Lexington regarding the February 19, 2014 letter or the incident to which it related.

20. Lexington's investigation was stymied by the fact that Lexington had received no notification, information, or materials from Hernandez relative to the alleged incident or the Complaint.

21. On March 12, 2014, Lexington's counsel sent a letter to Attorney Gillman, a true and complete copy of which is attached as Exhibit D.

22. In the March 12, 2014 letter, Lexington's counsel inquired whether or not Hernandez wished Lexington to provide him with a defense.

23. In the March 12, 2014 letter, Lexington's counsel made clear it would provide Hernandez a defense if he so wished, which defense would be provided under a reservation of rights.

24. In the March 12, 2014 letter, Lexington's counsel stated that, under the terms of the homeowner's policy, Hernandez is obligated to cooperate with Lexington in the investigation, settlement and/or defense of Bradley's lawsuit if Hernandez wishes Lexington to defend him.

25. In the March 12, 2014 letter, Lexington's counsel requested papers and information necessary for Lexington's investigation, settlement, and/or defense of Bradley's lawsuit against Hernandez.

26. In the March 12, 2014 letter, Lexington's counsel requested to interview and obtain a statement from Hernandez in order to investigate and evaluate the merits, if any, of Bradley's lawsuit against Hernandez, as well as to determine whether or not the policy provides coverage for Hernandez with respect to Bradley's claims.

27. In the March 12, 2014 letter, Lexington's counsel requested that Mr. Gillman remind Hernandez of his obligation to cooperate and that failure to cooperate is grounds for Lexington to deny coverage.

28. The Return Receipt from the U.S. Post Office reflects Mr. Gillman received the March 12, 2014 letter on March 18, 2014.

29. Mr. Gillman did not respond in any way to the March 12, 2014 letter.

30. Accordingly, on April 25, 2014, Lexington's counsel sent a second letter to Mr. Gillman, a true and complete copy of which is attached as Exhibit E.

31. In the April 25, 2014 letter, Lexington's counsel reiterated the inquiries, information, and requests included in the March 12, 2014 letter, including Hernandez's obligation to cooperate.

32. The Return Receipt from the U.S. Post Office reflects Mr. Gillman received the April 25, 2014 letter on April 29, 2014.

33. Mr. Gillman did not respond in any way to the April 25, 2014 letter.

34. Accordingly, on June 20, 2014, Lexington's counsel sent a third letter to Mr. Gillman, a true and complete copy of which is attached as Exhibit F.

35. In the June 20, 2014 letter, Lexington's counsel explained that Mr. Gillman's and Hernandez's continuing silence had led Lexington to conclude Hernandez was not requesting that Lexington provide him with a defense.



36. In the June 20, 2014 letter, Lexington's counsel explained that Lexington's attempts to investigate the alleged incident had been frustrated by Hernandez's failure to provide the information, papers, and interview it requested.

37. On June 30, 2014, Lexington's counsel and Mr. Gillman spoke on the phone.

38. During the June 30, 2014 phone call, Lexington's counsel again reiterated the need for Hernandez to state whether or not he was requesting that Lexington provide him with a defense.

39. During the June 30, 2014 phone call, Lexington's counsel again reiterated Hernandez's obligation to cooperate and that failure to cooperate is grounds for Lexington to deny coverage.

40. During the June 30, 2014 phone call, Lexington's counsel informed Mr. Gillman that, under Massachusetts law, Hernandez could not assert a Fifth Amendment right as a ground for refusal to cooperate with Lexington, as he is contractually obligated to do.

41. During the June 30, 2014 phone call, Lexington's counsel informed Mr. Gillman that, under Massachusetts law, refusal to cooperate with Lexington based on a Fifth Amendment right constitutes a breach of Hernandez's contractual obligation and permits Lexington to deny coverage.

42. On July 21, 2014, Lexington's counsel received a letter from Mr. Gillman dated July 14, 2014, a true and complete copy of which is attached as Exhibit G.

43. In the July 14, 2014 letter, Mr. Gillman stated that, during the June 30, 2014, phone call, Lexington's counsel and Mr. Gillman had agreed that Lexington and

Hernandez would enter what Mr. Gillman referred to as a "Common Interest Agreement," and also enclosed a proposed "Common Interest Agreement."

44. During the June 30, 2014 phone call, Lexington's counsel did not discuss or in any way agree to enter a "common interest agreement" of any sort.

45. The "common interest agreement" Mr. Gillman proposed would significantly alter the rights of the parties under the homeowners' policy, and Lexington is under no obligation whatsoever to agree to such an agreement.

46. In the July 14, 2014 letter, Mr. Gillman also stated that Lexington's counsel had agreed that Mr. Hernandez' cooperation obligations could be satisfied by communications between Mr. Gillman and Lexington's counsel.

47. During the June 30, 2014 phone call, Lexington's counsel did not discuss or in any way agree that Hernandez's cooperation obligations could be satisfied by communications between Mr. Gillman and Lexington's counsel.

48. On August 18, 2014, Lexington's counsel sent a letter to Mr. Gillman, a true and complete copy of which is attached as Exhibit H.

49. In the August 18, 2014 letter, Lexington's counsel specifically disclaimed Mr. Gillman's mischaracterization of the June 30, 2013 phone call but made clear that, regardless, Lexington took Mr. Gillman's July 21, 2014 letter to mean Hernandez wished Lexington to provide him with a defense.

50. In the August 18, 2014 letter, Lexington's counsel explained that it was imperative that Mr. Gillman send a complete and detailed analysis of the liability and damages aspects of Bradley's claims to Lexington's counsel at his earliest possible

convenience, as well as, among other things, all papers, documents, and reports filed, received, obtained, and exchanged relative to the action.

51. In the August 18, 2014 letter, Lexington's counsel again reiterated that it still had no information or materials regarding the incident, and that Hernandez still had not made himself available for an interview, and that Hernandez has a contractual duty to cooperate fully with Lexington.

52. Through a series of phone calls and emails between August 18, 2014 and August 28, 2014, Lexington's counsel has made abundantly clear that, in order for Hto obtain coverage, including a defense, Hernandez must comply with his duties under the homeowners' policy and also assist Lexington with that defense.

53. As of the date of this Complaint For Declaratory Relief, Hernandez has not fulfilled his duty to cooperate under the insurance policy.

### **CLAIMS FOR RELIEF**

#### **FIRST CLAIM FOR DECLARATORY RELIEF: INTENTIONAL ACTS**

54. The Plaintiff incorporates Paragraphs 1 through 53 as though fully set forth herein.

55. The homeowners' policy defines "occurrence" as an accident which results, during the policy period, in "bodily injury."

56. Bradley alleges Hernandez deliberately and intentionally shot him.

57. Bradley does not allege his injuries resulted from an accident, and therefore does not allege his injuries resulted from an "occurrence" as that term is defined in the homeowners' policy.

58. Because there was no "occurrence," the homeowners' policy does not cover Bradley's claims against Hernandez.

59. Bradley alleges that he sustained substantial physical injuries, which amount to "bodily injuries" under the homeowners' policy.

60. Bradley alleges that he sustained those bodily injuries as the result of Hernandez's pointing a gun at Bradley and then shooting that gun.

61. The homeowners' policy does not cover 'bodily injuries' which are the reasonably expected or intended result of the insured's actions.

62. As alleged, Bradley's bodily injuries were the expected and intended result of Hernandez pointing and firing a gun at Bradley.

63. Because Bradley's bodily injuries were the reasonably expected and intended result of Hernandez's alleged actions, the homeowners' policy does not cover Bradley's claims against Hernandez even if there was an "occurrence."

**SECOND CLAIM FOR DECLARATORY RELIEF: FAILURE TO COOPERATE**

64. The Plaintiff incorporates Paragraphs 1 through 63 as though fully set forth herein.

65. Under the terms of the homeowner's policy, an insured seeking coverage must provide Lexington with written notice "as soon as is practical," which must include, among other things, "[R]easonably available information on the time, place and circumstances of the 'occurrence' [. . .]."

66. Under the terms of the homeowner's policy, in the event of an "occurrence," an insured seeking coverage must "[p]romptly forward to [Lexington] every notice, demand, summons or other process relating to the 'occurrence' [. . .]."

67. The homeowners' policy states that Lexington does not have a duty to provide coverage to an insured who fails to comply with his duties under the policy and if, as a result, Lexington is prejudiced.

68. Hernandez failed to provide Lexington with written notice of the incident until nearly a year and a half after the incident occurred.

69. Hernandez failed to provide Lexington with written notice of Bradley's claims against him until over a year after Bradley filed his civil complaint.

70. Hernandez initially failed to make clear whether or not he wanted Lexington to provide him a defense.

71. To this date, despite Lexington's extensive requests, Hernandez has not made himself available for an interview.

72. Hernandez's initial failure to make clear whether or not he wished to tender his defense to Lexington and his failure to provide any information or materials whatsoever, including, but not limited to a statement, has prejudiced, in every way possible, Lexington's ability to determine coverage and defend the underlying case

#### **DEMAND FOR JURY TRIAL**

LEXINGTON DEMANDS A TRIAL BY JURY FOR ALL ISSUES SO TRIABLE.

#### **PRAYER FOR RELIEF**

WHEREFORE, Lexington respectfully requests this Court:

- a. Enter a judgment declaring Lexington has no duty to defend Hernandez because the activities which are the subject of the underlying litigation do not constitute an "occurrence," as that term is defined by the homeowners' policy.
- b. Enter a judgment declaring Lexington has no duty to defend Hernandez because the bodily injuries resulting from the activities which are the subject of the

underlying litigation were the reasonably expected or intended result of Hernandez's alleged actions.

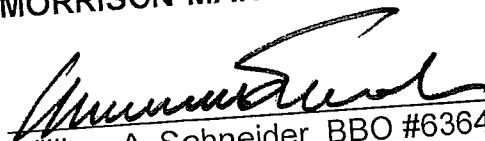
c. Enter a judgment declaring Lexington has no duty to defend Hernandez because, by failing to make clear whether or not he wishes to tender his defense to Lexington, and by failing to provide Lexington with any information or materials whatsoever, Hernandez has failed to comply with his duties under Paragraph C ("Duties After 'Occurrence'") of SECTION II – CONDITIONS of the homeowners' policy, which failure has prejudiced Lexington's ability to defend Hernandez.

d. Enter a judgment declaring Bradley is bound by this Court's declarations in this matter.

e. Grant such further relief as this Court deems just and proper.

Respectfully submitted,  
LEXINGTON INSURANCE COMPANY,  
By its attorneys,

**MORRISON MAHONEY LLP**



William A. Schneider, BBO #636421

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Boston, MA 02210

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Fax: (617) 342-4951

[wschneider@morrisonmahoney.com](mailto:wschneider@morrisonmahoney.com)

[greppucci@morrisonmahoney.com](mailto:greppucci@morrisonmahoney.com)

Dated: May 1, 2015

Exhibit A



Lexington Insurance Company  
HO3 Homeowner Declaration Page

Sub Broker Copy

This policy is insured by a company which is not admitted to transact insurance in the commonwealth, is not supervised by the commissioner of insurance and, in the event of an insolvency of such company, a loss shall not be paid by the Massachusetts Insurers Insolvency Fund under chapter 175D.

Policy Number: 28392450

Renewal of Policy Number: New

Name of Insured and Mailing Address:  
Hernandez, Aaron

22 RONALD C MEYER DR  
NORTH ATTLEBORO, MA 02760-2739

Broker Name and Address:  
Insurance Innovators Agency of New England, Inc.  
30 Capital Drive Ste B  
West Springfield, MA 01089

Policy Term: 11/15/2012

Expiration: 11/15/2013

12:01 AM Standard Time at the  
Insured's residence premises

The residence premises covered by this policy is located at the above address,  
Unless otherwise stated.

Insurance is provided only with respect to those special limits of liability applicable thereto:

**Coverage Part 1 - Homeowners**

|                     |             |
|---------------------|-------------|
| - Coverage A:       | \$1,500,000 |
| - Coverage B:       | \$150,000   |
| - Coverage C:       | \$750,000   |
| - Coverage D:       | \$150,000   |
| - Loss Assessment:  | \$1,000     |
| - Ordinance or Law: | 10%         |
| - Coverage E:       | \$500,000   |
| - Coverage F:       | \$5,000     |

**Coverage Part 2 - Personal Umbrella**

|                          |     |
|--------------------------|-----|
| - Umbrella Limit:        | \$0 |
| - Self Insured Retention | \$0 |

**Coverage Part 3 - Excess Flood**

|            |     |           |           |
|------------|-----|-----------|-----------|
| - Building | \$0 | Excess of | \$250,000 |
| - Contents | \$0 | Excess of | \$100,000 |

**Coverage Part 4 - Scheduled Property**

|                            |     |
|----------------------------|-----|
| - Total Scheduled Property | \$0 |
|----------------------------|-----|

**Homeowner Deductibles**

|                   |          |
|-------------------|----------|
| All Other Perils: | \$5,000  |
| Wind and Hail:    | \$5,000  |
| Earthquake:       | Excluded |

|               |       |
|---------------|-------|
| Special: None | \$N/A |
| Special: None | \$N/A |

**Annual Premium:**

|                    |            |
|--------------------|------------|
| Policy Premium:    | \$6,375.00 |
| Inspection Fee:    | \$6,375.00 |
| Policy Fee:        | \$375.00   |
| Surplus Lines Tax: | 0          |
|                    | \$255.00   |

Total Due: \$7,005.00

Minimum Earned Premium: \$1,594

**Homeowners Rating Information**

|               |            |                   |      |
|---------------|------------|-------------------|------|
| Territory:    | 34         | Protection Class: | 3/9  |
| County:       | BRISTOL-MA |                   |      |
| Construction: | Frame      |                   |      |
| EQ zone:      | NA         | Yr Built:         | 2007 |

**Sub Broker Information**

Name: Silk Ins Svcs  
Addr 1: 1000 Germantown PK  
Addr 2: Suite J4  
City, State Zip: Plymouth Mtg, PA 19462

Forms and Endorsements made part of this policy at time of Issuance: Please see Schedule of Forms and Endorsements

This declaration page with policy provisions and endorsements, if any, issued to form a part thereof, completes the above numbered Homeowner's policy.

Countersignature Date: 11/27/2012

Countersignature: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_

*James A. Cronin*

Policy Number: 28392450  
Insured: Hernandez, Aaron

| Mortgagee 1 | Mortgagee 2 |
|-------------|-------------|
|             |             |
| Mortgagee 3 |             |
|             |             |



POLICY NUMBER: 28392450  
Effective Date: 11/15/2012

Date Issued: 11/27/2012

### SCHEDULE OF FORMS AND ENDORSEMENTS

|                            |  |
|----------------------------|--|
| Lex Elite 11/00            | Declaration Page   |
| 78052 01 11                | Chartis U. S. Privacy and Data Security Notice                     |
| HO 00 03 10 00             | Homeowner 3 Special Form   |
| HO 01 20 09 01             | Special Provisions - Massachusetts                                 |
| HO 04 16 10 00             | Premises Alarm/Fire Protection System                              |
| HO 04 35 10 00             | Loss Assessment Coverage   |
| HO 04 90 10 00             | Personal Property Replacement Cost                                 |
| HO 04 96 10 00             | Home Day Care Exclusion  |
| HO 05 80 10 00             | Property Remediation/Limited Liability for Escaped Fuels HO3       |
| HO 24 41 09 01             | Lead Poisoning Exclusion - Mass                                    |
| LEX 00 04 11 04            | Lexington Standard Policy Conditions                               |
| LEX 00 14 09 08            | Important Flood Notice.  |
| LEX 00 63 04 05            | Mechanical Breakdown   |
| LEX 00 82 04 06            | Maximum Payable Amount If Other Insurance                          |
| LEX 00 141 09 08           | Amendment to Fair Rental Value Endorsement                         |
| LEX 00 156 06 11           | Specified Additional Amount of Insurance for Coverage A - Dwelling |
| LEX 00 159 03 09           | Swimming Pool Under Coverage B Exclusion                           |
| LEX 00 168 09 09           | Specific Building Materials Exclusion                              |
| LEX 01 09 04 11            | Lex Special Provisions All States                                  |
| LEX 03 14 07 07            | Windstorm or Hail Percentage Deductible                            |
| LEX 04 33 11 04            | Limited Mold Related Coverage                                      |
| LEX 04 95 11 04            | Water Back Up and Sump Overflow                                    |
| LEX 05 80 11 04            | Advisory Notice to Policyholders - Explanatory Memo                |
| 89644 07 05                | OFAC Advisory Notice   |
| Claims Policyholder Notice | What to Do if You Suffer a Loss to Your Home and Property          |



Lexington Insurance Company  
HO3 Homeowner Declaration Page

Insured Copy

This policy is insured by a company which is not admitted to transact insurance in the commonwealth, is not supervised by the commissioner of insurance and, in the event of an insolvency of such company, a loss shall not be paid by the Massachusetts Insurers Insolvency Fund under chapter 175D.

Policy Number: 28392450

Renewal of Policy Number: New

Name of Insured and Mailing Address:  
Hernandez, Aaron

22 RONALD C MEYER DR  
NORTH ATTLEBORO, MA 02760-2739

Broker Name and Address:  
Insurance Innovators Agency of New England, Inc.  
30 Capital Drive Ste B  
West Springfield, MA 01089

Policy Term: 11/15/2012

Expiration: 11/15/2013

12:01 AM Standard Time at the  
Insured's residence premises

The residence premises covered by this policy is located at the above address,  
Unless otherwise stated.

Insurance is provided only with respect to those special limits of liability applicable thereto:

**Coverage Part 1 - Homeowners**

|                     |             |
|---------------------|-------------|
| - Coverage A:       | \$1,500,000 |
| - Coverage B:       | \$150,000   |
| - Coverage C:       | \$750,000   |
| - Coverage D:       | \$150,000   |
| - Loss Assessment:  | \$1,000     |
| - Ordinance or Law: | 10%         |
| - Coverage E:       | \$500,000   |
| - Coverage F:       | \$5,000     |

**Coverage Part 2 - Personal Umbrella**

|                          |     |
|--------------------------|-----|
| - Umbrella Limit         | \$0 |
| - Self Insured Retention | \$0 |

**Coverage Part 3 - Excess Flood**

|            |     |           |           |
|------------|-----|-----------|-----------|
| - Building | \$0 | Excess of | \$250,000 |
| - Contents | \$0 | Excess of | \$100,000 |

**Coverage Part 4 - Scheduled Property**

|                            |     |
|----------------------------|-----|
| - Total Scheduled Property | \$0 |
|----------------------------|-----|

**Homeowner Deductibles**

|                   |          |
|-------------------|----------|
| All Other Perils: | \$5,000  |
| Wind and Hail:    | \$5,000  |
| Earthquake:       | Excluded |

|               |       |
|---------------|-------|
| Special: None | \$N/A |
| Special: None | \$N/A |

|                    |            |
|--------------------|------------|
| Annual Premium:    | \$6,375.00 |
| Policy Premium:    | \$6,375.00 |
| Inspection Fee:    | \$375.00   |
| Policy Fee:        | 0          |
| Surplus Lines Tax: | \$255.00   |

Total Due: \$7,005.00

Minimum Earned Premium: \$1,594

**Homeowners Rating Information**

|               |            |                   |      |
|---------------|------------|-------------------|------|
| Territory:    | 34         | Protection Class: | 3/9  |
| County:       | BRISTOL-MA |                   |      |
| Construction: | Frame      |                   |      |
| EQ zone:      | NA         | Yr Built:         | 2007 |

**Sub Broker Information**

Name: Silk Ins Svcs  
Addr 1: 1000 Germantown PK  
Addr 2: Suite J4  
City, State Zip: Plymouth Mtg, PA 19462

Forms and Endorsements made part of this policy at time of Issuance: Please see Schedule of Forms and Endorsements

This declaration page with policy provisions and endorsements, if any, issued to form a part thereof, completes the above numbered homeowners policy.

Countersignature Date: 11/27/2012

Countersignature: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_

Lex Elite 11/00

Policy Number: 28392450  
Insured: Hernandez, Aaron

|             |             |
|-------------|-------------|
| Mortgagee 1 | Mortgagee 2 |
| Mortgagee 3 |             |

POLICY NUMBER: 28392450  
Effective Date: 11/15/2012

Date Issued: 11/27/2012

### SCHEDULE OF FORMS AND ENDORSEMENTS

|                            |  |
|----------------------------|--|
| Lex Elite 11/00            | Declaration Page   |
| 78052 01 11                | Chartis U. S. Privacy and Data Security Notice                     |
| HO 00 03 10 00             | Homeowner 3 Special Form   |
| HO 01 20 09 01             | Special Provisions - Massachusetts                                 |
| HO 04 16 10 00             | Premises Alarm/Fire Protection System                              |
| HO 04 35 10 00             | Loss Assessment Coverage   |
| HO 04 90 10 00             | Personal Property Replacement Cost                                 |
| HO 04 96 10 00             | Home Day Care Exclusion  |
| HO 05 80 10 00             | Property Remediation/Limited Liability for Escaped Fuels HO3       |
| HO 24 41 09 01             | Lead Poisoning Exclusion - Mass                                    |
| LEX 00 04 11 04            | Lexington Standard Policy Conditions                               |
| LEX 00 14 09 08            | Important Flood Notice.  |
| LEX 00 63 04 05            | Mechanical Breakdown   |
| LEX 00 82 04 06            | Maximum Payable Amount If Other Insurance                          |
| LEX 00 141 09 08           | Amendment to Fair Rental Value Endorsement                         |
| LEX 00 156 06 11           | Specified Additional Amount of Insurance for Coverage A - Dwelling |
| LEX 00 159 03 09           | Swimming Pool Under Coverage B Exclusion                           |
| LEX 00 168 09 09           | Specific Building Materials Exclusion                              |
| LEX 01 09 04 11            | Lex Special Provisions All States                                  |
| LEX 03 14 07 07            | Windstorm or Hail Percentage Deductible                            |
| LEX 04 33 11 04            | Limited Mold Related Coverage                                      |
| LEX 04 95 11 04            | Water Back Up and Sump Overflow                                    |
| LEX 05 80 11 04            | Advisory Notice to Policyholders - Explanatory Memo                |
| 89644 07 05                | OFAC Advisory Notice   |
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Lexington Insurance Company  
HO3 Homeowner Declaration Page

— Sub-Broker Copy —

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Policy Number: 28392450

Renewal of Policy Number: New

Name of Insured and Mailing Address:  
Hernandez, Aaron

22 RONALD C MEYER DR  
NORTH ATTLEBORO, MA 02760-2739

Broker Name and Address:  
Insurance Innovators Agency of New England, Inc.  
30 Capital Drive Ste B  
West Springfield, MA 01089

Policy Term: 11/15/2012

Expiration: 11/15/2013

12:01 AM Standard Time at the  
Insured's residence premises

The residence premises covered by this policy is located at the above address,  
Unless otherwise stated.

Insurance is provided only with respect to those special limits of liability applicable thereto:

**Coverage Part 1 - Homeowners**

|                     |             |
|---------------------|-------------|
| - Coverage A:       | \$1,500,000 |
| - Coverage B:       | \$150,000   |
| - Coverage C:       | \$750,000   |
| - Coverage D:       | \$150,000   |
| - Loss Assessment:  | \$1,000     |
| - Ordinance or Law: | 10%         |
| - Coverage E:       | \$500,000   |
| - Coverage F:       | \$5,000     |

**Coverage Part 2 - Personal Umbrella**

|                          |     |
|--------------------------|-----|
| - Umbrella Limit         | \$0 |
| - Self Insured Retention | \$0 |

**Coverage Part 3 - Excess Flood**

|            |     |           |           |
|------------|-----|-----------|-----------|
| - Building | \$0 | Excess of | \$250,000 |
| - Contents | \$0 | Excess of | \$100,000 |

**Coverage Part 4 - Scheduled Property**

|                            |     |
|----------------------------|-----|
| - Total Scheduled Property | \$0 |
|----------------------------|-----|

**Homeowner Deductibles**

|                   |          |
|-------------------|----------|
| All Other Perils: | \$5,000  |
| Wind and Hail:    | \$5,000  |
| Earthquake:       | Excluded |

Special: None  
Special: None

\$N/A  
\$N/A

**Annual Premium:**

|                    |            |
|--------------------|------------|
| Policy Premium:    | \$6,375.00 |
| Inspection Fee:    | \$6,375.00 |
| Policy Fee:        | \$375.00   |
| Surplus Lines Tax: | 0          |
|                    | \$255.00   |

Total Due: \$7,005.00

Minimum Earned Premium: \$1,594

**Homeowners Rating Information**

|               |            |                   |      |
|---------------|------------|-------------------|------|
| Territory:    | 34         | Protection Class: | 3/9  |
| County:       | BRISTOL-MA |                   |      |
| Construction: | Frame      |                   |      |
| EQ zone:      | NA         | Yr Built:         | 2007 |

**Sub Broker Information**

Name: Silk Ins Svcs  
Addr 1: 1000 Germantown PK  
Addr 2: Suite J4  
City, State Zip: Plymouth Mtg, PA 19462

Forms and Endorsements made part of this policy at time of issuance: Please see Schedule of Forms and Endorsements  
This declaration page with policy provisions and endorsements, if any, issued to form a part thereof, completes the above numbered  
homeowner's policy.

Countersignature Date: 11/27/2012

Countersignature: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_

*James A. Cronin*

Policy Number: 28392450  
Insured: Hernandez, Aaron

|             |             |
|-------------|-------------|
| Mortgagee 1 | Mortgagee 2 |
|             |             |
| Mortgagee 3 |             |
|             |             |

POLICY NUMBER: 28392450  
Effective Date: 11/15/2012

Date Issued: 11/27/2012

### SCHEDULE OF FORMS AND ENDORSEMENTS

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| HO 04 90 10 00             | Personal Property Replacement Cost                                 |
| HO 04 96 10 00             | Home Day Care Exclusion  |
| HO 05 80 10 00             | Property Remediation/Limited Liability for Escaped Fuels HO3       |
| HO 24 41 09 01             | Lead Poisoning Exclusion - Mass                                    |
| LEX 00 04 11 04            | Lexington Standard Policy Conditions                               |
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| LEX 00 141 09 08           | Amendment to Fair Rental Value Endorsement                         |
| LEX 00 156 06 11           | Specified Additional Amount of Insurance for Coverage A - Dwelling |
| LEX 00 159 03 09           | Swimming Pool Under Coverage B Exclusion                           |
| LEX 00 168 09 09           | Specific Building Materials Exclusion                              |
| LEX 01 09 04 11            | Lex Special Provisions All States                                  |
| LEX 03 14 07 07            | Windstorm or Hail Percentage Deductible                            |
| LEX 04 33 11 04            | Limited Mold Related Coverage                                      |
| LEX 04 95 11 04            | Water Back Up and Sump Overflow                                    |
| LEX 05 80 11 04            | Advisory Notice to Policyholders - Explanatory Memo                |
| 89644 07 05                | OFAC Advisory Notice   |
| Claims Policyholder Notice | What to Do if You Suffer a Loss to Your Home and Property          |



Lexington Insurance Company  
HO3 Homeowner Declaration Page

-- Insured Copy --

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Policy Number: 28392450

Renewal of Policy Number: New

Name of Insured and Mailing Address:  
Hernandez, Aaron

22 RONALD C MEYER DR  
NORTH ATTLEBORO, MA 02760-2739

Broker Name and Address:  
Insurance Innovators Agency of New England, Inc.  
30 Capital Drive Ste B  
West Springfield, MA 01089

Policy Term: 11/15/2012

Expiration: 11/15/2013

12:01 AM Standard Time at the  
Insured's residence premises

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Unless otherwise stated.

Insurance is provided only with respect to those special limits of liability applicable thereto:

**Coverage Part 1 - Homeowners**

|                     |             |
|---------------------|-------------|
| - Coverage A:       | \$1,500,000 |
| - Coverage B:       | \$150,000   |
| - Coverage C:       | \$750,000   |
| - Coverage D:       | \$150,000   |
| - Loss Assessment:  | \$1,000     |
| - Ordinance or Law: | 10%         |
| - Coverage E:       | \$500,000   |
| - Coverage F:       | \$5,000     |

**Coverage Part 2 - Personal Umbrella**

|                          |     |
|--------------------------|-----|
| - Umbrella Limit         | \$0 |
| - Self Insured Retention | \$0 |

**Coverage Part 3 - Excess Flood**

|            |     |           |           |
|------------|-----|-----------|-----------|
| - Building | \$0 | Excess of | \$250,000 |
| - Contents | \$0 | Excess of | \$100,000 |

**Coverage Part 4 - Scheduled Property**

|                            |     |
|----------------------------|-----|
| - Total Scheduled Property | \$0 |
|----------------------------|-----|

**Homeowner Deductibles**

|                   |          |
|-------------------|----------|
| All Other Perils: | \$5,000  |
| Wind and Hail:    | \$5,000  |
| Earthquake:       | Excluded |

|               |       |
|---------------|-------|
| Special: None | \$N/A |
| Special: None | \$N/A |

**Annual Premium:**

|                    |            |
|--------------------|------------|
| Policy Premium:    | \$6,375.00 |
| Inspection Fee:    | \$375.00   |
| Policy Fee:        | 0          |
| Surplus Lines Tax: | \$255.00   |

Total Due: \$7,005.00

Minimum Earned Premium: \$1,594

**Homeowners Rating Information**

|               |            |                   |      |
|---------------|------------|-------------------|------|
| Territory:    | 34         | Protection Class: | 3/9  |
| County:       | BRISTOL-MA |                   |      |
| Construction: | Frame      |                   |      |
| EQ zone:      | NA         | Yr Built:         | 2007 |

**Sub Broker Information**

Name: Silk Ins Svcs  
Addr 1: 1000 Germantown PK  
Addr 2: Suite J4  
City, State Zip: Plymouth Mtg, PA 19462

Forms and Endorsements made part of this policy at time of issuance: Please see Schedule of Forms and Endorsements  
This declaration page with policy provisions and endorsements, if any, issued to form a part thereof, completes the above numbered  
homeowner's policy.

Countersignature Date: 11/27/2012

Countersignature: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_

Lex Elite 11/00



Policy Number: 28392450  
Insured: Hernandez, Aaron

|             |             |
|-------------|-------------|
| Mortgagee 1 | Mortgagee 2 |
| Mortgagee 3 |             |

POLICY NUMBER: 28392450  
Effective Date: 11/15/2012

Date Issued: 11/27/2012

### SCHEDULE OF FORMS AND ENDORSEMENTS

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| HO 04 96 10 00             | Home Day Care Exclusion  |
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| LEX 00 159 03 09           | Swimming Pool Under Coverage B Exclusion                           |
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| LEX 03 14 07 07            | Windstorm or Hail Percentage Deductible                            |
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| 89644 07 05                | OFAC Advisory Notice   |
| Claims Policyholder Notice | What to Do if You Suffer a Loss to Your Home and Property          |

### **POLICYHOLDER NOTICE**

Thank you for purchasing insurance from the Chartis companies. Chartis insurance companies generally pay compensation to brokers and independent agents, and may have paid compensation in connection with your policy. You can review and obtain information about the nature and range of compensation paid by Chartis insurance companies to brokers and independent agents in the United States by visiting our website at [www.chartisinsurance.com/producercompensation](http://www.chartisinsurance.com/producercompensation) or by calling 1-800-706-3102.

# Chartis U.S. Privacy and Data Security Notice

## About This Notice

This Privacy and Data Security Notice applies only to your Personal Information (see definition below) obtained by one of the Chartis U.S. Companies or their affiliates listed at the end of this notice, in connection with the products or services one of those companies provided primarily for your personal, family, or household purposes in connection with which you are receiving this notice.

Chartis U.S. has established practices, procedures and system protections that are designed to help protect the privacy and security of Personal Information that we collect in the course of conducting our business. This notice outlines how we collect, handle, and disclose Personal Information about you.

The term "Personal Information," as used in this Privacy and Data Security Notice, means information that identifies you personally. Examples of Personal Information include a first and last name, a home or other physical address, an email address, a financial account or credit card number, a driver's license number, or information on your physical condition or health status.

## I. Information Privacy

We may collect Personal Information from applications, enrollment forms, in claims processing, or in your other interactions with us and with our Affiliates. We may also collect Personal Information from credit reporting agencies and other third parties in connection with the sale of our products to you.

We will collect Personal Information only in accordance with applicable laws or regulations, whether we collect it in response to your request for a product or service from us or otherwise.

## Information Sharing

We may share your Personal Information with Affiliates and Non-Affiliates as described below.

**With our Affiliates:** Our Affiliates may include other insurance companies, insurance holding companies, insurance agents and agencies, claims administrators, marketing companies, e-commerce service providers, and companies providing administrative services.

We may share your Personal Information, including Personal Information of a health nature, with our Affiliates that assist us in servicing your insurance policies. Examples are administration (billing and collections), risk management, underwriting, and claims handling. We may also share your Personal Information with our Affiliates for the purpose of detecting and preventing fraud, as directed or authorized by you, or as otherwise permitted or required by law.

## With Non-Affiliates:

We may share your Personal Information, including Personal Information of a health nature, with Non-Affiliates that assist us in servicing your insurance policies. Examples are administration (billing and collections), risk management, underwriting, and claims handling. We may also share your Personal Information with Non-Affiliates for the purpose of detecting and preventing fraud, as directed or authorized by you, or as otherwise permitted or required by law.

We may also enter into joint marketing agreements with Non-Affiliates to share your non-health Personal Information as permitted by law. These Non-Affiliates may include providers of financial products or services such as insurance companies, financial institutions, and securities firms.

Because we do not share Personal Information with either Affiliates or Non-Affiliates in any other way, there is no need for an opt-out process in our privacy procedures.

For California and Vermont Residents: If it becomes necessary to share your Personal Information with Non-Affiliates other than as specifically allowed by law, we will not do so without first obtaining your permission.

## II. Data Security

To help prevent unwarranted disclosure of your Personal Information and secure it from theft, we utilize secure computer networks. Access is restricted to those persons who have a business need to use your Personal Information to provide products or services to you. We also maintain physical, electronic, and procedural safeguards designed to protect your Personal Information in compliance with federal and state privacy and information security laws. Non-Affiliates that assist us in servicing insurance policies or who enter into joint marketing agreements with us are required to take measures to maintain the security of your Personal Information in compliance with federal and state privacy and information security laws.

## III. Maintaining Personal Information

We also maintain procedures to ensure that the Personal Information we collect is accurate, up-to-date, and as complete as possible. If you believe the information we have about you in our records or files is incomplete or inaccurate, you may request that we make additions or corrections, or if it is feasible, that we delete this information from our files. You may make this request in writing to (include your name, address and policy number):

Chief Privacy Officer  
Chartis U.S.  
175 Water Street, 17th Floor  
New York, NY 10038  
Fax: 212 458-7081  
E-Mail: [CIPrivacy@chartisinsurance.com](mailto:CIPrivacy@chartisinsurance.com)

**Special Notice:** You can obtain access to any non-public Personal Information we have about you if you properly identify yourself and submit a written request to the address above describing the information you want to review. We will also tell you the identity, if recorded, of persons to whom we have disclosed your non-public Personal Information within the preceding two years.

You may request that we correct, amend or delete information about you. If we do so, we will notify organizations that provided us with that information and, at your request, persons who received that information from us within the preceding two years. If we cannot grant your request to correct, amend or delete the information, you may give us a written statement of the reasons you disagree, which we will place in your file and give to the same parties who would have been notified of the requested change.

## Our Customers Can Depend on Us

We are committed to maintaining our trusted relationship with our Customers. We consider it our privilege to serve our Customers' insurance and financial needs and we value the trust they have placed in us. Our Customers' privacy is a top priority. We will continue to monitor our practices in order to protect that privacy and will comply with state privacy laws that require more restrictive practices than those set out in this notice.

## Important Information Concerning the Applicability and Future Changes to this Privacy and Data Security Notice

We may change this Privacy and Data Security Notice from time to time, and if particular changes are required by law to be communicated to you, we will do so.

You may have received this notice in connection with products or services provided to you by one of the following Companies: American Home Assurance Company; Chartis Casualty Company; Chartis Property Casualty Company; Chartis Select Insurance Company; Chartis Specialty Insurance Company; Commerce and Industry Insurance Company; Granite State Insurance Company; Illinois National Insurance Co.; Landmark Insurance Company; Lexington Insurance Company; National Union Fire Insurance Company of Pittsburgh, Pa.; National Union Fire Insurance Company of Vermont; New Hampshire Insurance Company; The Insurance Company of the State of Pennsylvania; other Chartis U.S. companies, and American International Life Assurance Company of New York and American General Life Insurance Company of Delaware.

## HOMEOWNERS 3 – SPECIAL FORM

### AGREEMENT

We will provide the insurance described in this policy in return for the premium and compliance with all applicable provisions of this policy.

### DEFINITIONS

A. In this policy, "you" and "your" refer to the "named insured" shown in the Declarations and the spouse if a resident of the same household. "We", "us" and "our" refer to the Company providing this insurance.

B. In addition, certain words and phrases are defined as follows:

1. "Aircraft Liability", "Hovercraft Liability", "Motor Vehicle Liability" and "Watercraft Liability", subject to the provisions in b. below, mean the following:

a. Liability for "bodily injury" or "property damage" arising out of the:

- (1) Ownership of such vehicle or craft by an "insured";
- (2) Maintenance, occupancy, operation, use, loading or unloading of such vehicle or craft by any person;
- (3) Entrustment of such vehicle or craft by an "insured" to any person;
- (4) Failure to supervise or negligent supervision of any person involving such vehicle or craft by an "insured"; or
- (5) Vicarious liability, whether or not imposed by law, for the actions of a child or minor involving such vehicle or craft.

b. For the purpose of this definition:

- (1) Aircraft means any contrivance used or designed for flight except model or hobby aircraft not used or designed to carry people or cargo;
- (2) Hovercraft means a self-propelled motorized ground effect vehicle and includes, but is not limited to, flarecraft and air cushion vehicles;
- (3) Watercraft means a craft principally designed to be propelled on or in water by wind, engine power or electric motor; and
- (4) Motor vehicle means a "motor vehicle" as defined in 7. below.

2. "Bodily injury" means bodily harm, sickness or disease, including required care, loss of services and death that results.

3. "Business" means:

a. A trade, profession or occupation engaged in on a full-time, part-time or occasional basis; or

b. Any other activity engaged in for money or other compensation, except the following:

- (1) One or more activities, not described in (2) through (4) below, for which no "insured" receives more than \$2,000 in total compensation for the 12 months before the beginning of the policy period;
- (2) Volunteer activities for which no money is received other than payment for expenses incurred to perform the activity;
- (3) Providing home day care services for which no compensation is received, other than the mutual exchange of such services; or
- (4) The rendering of home day care services to a relative of an "insured".

4. "Employee" means an employee of an "insured", or an employee leased to an "insured" by a labor leasing firm under an agreement between an "insured" and the labor leasing firm, whose duties are other than those performed by a "residence employee".

5. "Insured" means:

a. You and residents of your household who are:

- (1) Your relatives; or
- (2) Other persons under the age of 21 and in the care of any person named above;

b. A student enrolled in school full time, as defined by the school, who was a resident of your household before moving out to attend school, provided the student is under the age of:

- (1) 24 and your relative; or
- (2) 21 and in your care or the care of a person described in a.(1) above; or

c. Under Section II:

(1) With respect to animals or watercraft to which this policy applies, any person or organization legally responsible for these animals or watercraft which are owned by you or any person included in a. or b. above. "Insured" does not mean a person or organization using or having custody of these animals or watercraft in the course of any "business" or without consent of the owner; or

(2) With respect to a "motor vehicle" to which this policy applies:

(a) Persons while engaged in your employ or that of any person included in a. or b. above; or

(b) Other persons using the vehicle on an "insured location" with your consent.

Under both Sections I and II, when the word an immediately precedes the word "insured", the words an "insured" together mean one or more "insureds".

6. "Insured location" means:

a. The "residence premises";

b. The part of other premises, other structures and grounds used by you as a residence; and

(1) Which is shown in the Declarations; or

(2) Which is acquired by you during the policy period for your use as a residence;

c. Any premises used by you in connection with a premises described in a. and b. above;

d. Any part of a premises:

(1) Not owned by an "insured"; and

(2) Where an "insured" is temporarily residing;

e. Vacant land, other than farm land, owned by or rented to an "insured";

f. Land owned by or rented to an "insured" on which a one, two, three or four family dwelling is being built as a residence for an "insured";

g. Individual or family cemetery plots or burial vaults of an "insured"; or

h. Any part of a premises occasionally rented to an "insured" for other than "business" use.

7. "Motor vehicle" means:

a. A self-propelled land or amphibious vehicle; or

b. Any trailer or semitrailer which is being carried on, towed by or hitched for towing by a vehicle described in a. above.

8. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results, during the policy period, in:

a. "Bodily injury"; or

b. "Property damage".

9. "Property damage" means physical injury to, destruction of, or loss of use of tangible property.

10. "Residence employee" means:

a. An employee of an "insured", or an employee leased to an "insured" by a labor leasing firm, under an agreement between an "insured" and the labor leasing firm, whose duties are related to the maintenance or use of the "residence premises", including household or domestic services; or

b. One who performs similar duties elsewhere not related to the "business" of an "insured".

A "residence employee" does not include a temporary employee who is furnished to an "insured" to substitute for a permanent "residence employee" on leave or to meet seasonal or short-term workload conditions.

11. "Residence premises" means:

a. The one family dwelling where you reside;

b. The two, three or four family dwelling where you reside in at least one of the family units; or

c. That part of any other building where you reside;

and which is shown as the "residence premises" in the Declarations.

"Residence premises" also includes other structures and grounds at that location.

## DEDUCTIBLE

Unless otherwise noted in this policy, the following deductible provision applies:

Subject to the policy limits that apply, we will pay only that part of the total of all loss payable under Section I that exceeds the deductible amount shown in the Declarations.

## SECTION I – PROPERTY COVERAGES

### A. Coverage A – Dwelling

#### 1. We cover:

- a. The dwelling on the "residence premises" shown in the Declarations, including structures attached to the dwelling; and
- b. Materials and supplies located on or next to the "residence premises" used to construct, alter or repair the dwelling or other structures on the "residence premises".

#### 2. We do not cover land, including land on which the dwelling is located.

### B. Coverage B – Other Structures

#### 1. We cover other structures on the "residence premises" set apart from the dwelling by clear space. This includes structures connected to the dwelling by only a fence, utility line, or similar connection.

#### 2. We do not cover:

- a. Land, including land on which the other structures are located;
- b. Other structures rented or held for rental to any person not a tenant of the dwelling, unless used solely as a private garage;
- c. Other structures from which any "business" is conducted; or
- d. Other structures used to store "business" property. However, we do cover a structure that contains "business" property solely owned by an "insured" or a tenant of the dwelling provided that "business" property does not include gaseous or liquid fuel, other than fuel in a permanently installed fuel tank of a vehicle or craft parked or stored in the structure.

#### 3. The limit of liability for this coverage will not be more than 10% of the limit of liability that applies to Coverage A. Use of this coverage does not reduce the Coverage A limit of liability.

### C. Coverage C – Personal Property

#### 1. Covered Property

We cover personal property owned or used by an "insured" while it is anywhere in the world. After a loss and at your request, we will cover personal property owned by:

- a. Others while the property is on the part of the "residence premises" occupied by an "insured"; or
- b. A guest or a "residence employee", while the property is in any residence occupied by an "insured".

#### 2. Limit For Property At Other Residences

Our limit of liability for personal property usually located at an "insured's" residence, other than the "residence premises", is 10% of the limit of liability for Coverage C, or \$1,000, whichever is greater. However, this limitation does not apply to personal property:

- a. Moved from the "residence premises" because it is being repaired, renovated or rebuilt and is not fit to live in or store property in; or
- b. In a newly acquired principal residence for 30 days from the time you begin to move the property there.

#### 3. Special Limits Of Liability

The special limit for each category shown below is the total limit for each loss for all property in that category. These special limits do not increase the Coverage C limit of liability.

- a. \$200 on money, bank notes, bullion, gold other than goldware, silver other than silverware, platinum other than platinumware, coins, medals, scrip, stored value cards and smart cards.
- b. \$1,500 on securities, accounts, deeds, evidences of debt, letters of credit, notes other than bank notes, manuscripts, personal records, passports, tickets and stamps. This dollar limit applies to these categories regardless of the medium (such as paper or computer software) on which the material exists.

This limit includes the cost to research, replace or restore the information from the lost or damaged material.



- c. \$1,500 on watercraft of all types, including their trailers, furnishings, equipment and outboard engines or motors.
- d. \$1,500 on trailers or semitrailers not used with watercraft of all types.
- e. \$1,500 for loss by theft of jewelry, watches, furs, precious and semiprecious stones.
- f. \$2,500 for loss by theft of firearms and related equipment.
- g. \$2,500 for loss by theft of silverware, silver-plated ware, goldware, gold-plated ware, platinumware, platinum-plated ware and pewterware. This includes flatware, hollowware, tea sets, trays and trophies made of or including silver, gold or pewter.
- h. \$2,500 on property, on the "residence premises", used primarily for "business" purposes.
- i. \$500 on property, away from the "residence premises", used primarily for "business" purposes. However, this limit does not apply to loss to electronic apparatus and other property described in Categories j. and k. below.
- j. \$1,500 on electronic apparatus and accessories, while in or upon a "motor vehicle", but only if the apparatus is equipped to be operated by power from the "motor vehicle's" electrical system while still capable of being operated by other power sources.  
Accessories include antennas, tapes, wires, records, discs or other media that can be used with any apparatus described in this Category j.
- k. \$1,500 on electronic apparatus and accessories used primarily for "business" while away from the "residence premises" and not in or upon a "motor vehicle". The apparatus must be equipped to be operated by power from the "motor vehicle's" electrical system while still capable of being operated by other power sources.  
Accessories include antennas, tapes, wires, records, discs or other media that can be used with any apparatus described in this Category k.

#### 4. Property Not Covered

We do not cover:

- a. Articles separately described and specifically insured, regardless of the limit for which they are insured, in this or other insurance;

- b. Animals, birds or fish;
- c. "Motor vehicles".

(1) This includes:

- (a) Their accessories, equipment and parts; or
- (b) Electronic apparatus and accessories designed to be operated solely by power from the electrical system of the "motor vehicle". Accessories include antennas, tapes, wires, records, discs or other media that can be used with any apparatus described above.

The exclusion of property described in (a) and (b) above applies only while such property is in or upon the "motor vehicle".

(2) We do cover "motor vehicles" not required to be registered for use on public roads or property which are:

- (a) Used solely to service an "insured's" residence; or
- (b) Designed to assist the handicapped;

d. Aircraft meaning any contrivance used or designed for flight including any parts whether or not attached to the aircraft.

We do cover model or hobby aircraft not used or designed to carry people or cargo;

e. Hovercraft and parts. Hovercraft means a self-propelled motorized ground effect vehicle and includes, but is not limited to, flarecraft and air cushion vehicles;

f. Property of roomers, boarders and other tenants, except property of roomers and boarders related to an "insured";

g. Property in an apartment regularly rented or held for rental to others by an "insured", except as provided in E.10. Landlord's Furnishings under Section I – Property Coverages;

h. Property rented or held for rental to others off the "residence premises";

i. "Business" data, including such data stored in:

- (1) Books of account, drawings or other paper records; or
- (2) Computers and related equipment.

We do cover the cost of blank recording or storage media, and of prerecorded computer programs available on the retail market;

- j. Credit cards, electronic fund transfer cards or access devices used solely for deposit, withdrawal or transfer of funds except as provided in E.6. Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money under Section I – Property Coverages; or
- k. Water or steam.

#### **D. Coverage D – Loss Of Use**

The limit of liability for Coverage D is the total limit for the coverages in 1. Additional Living Expense, 2. Fair Rental Value and 3. Civil Authority Prohibits Use below.

##### **1. Additional Living Expense**

If a loss covered under Section I makes that part of the "residence premises" where you reside not fit to live in, we cover any necessary increase in living expenses incurred by you so that your household can maintain its normal standard of living.

Payment will be for the shortest time required to repair or replace the damage or, if you permanently relocate, the shortest time required for your household to settle elsewhere.

##### **2. Fair Rental Value**

If a loss covered under Section I makes that part of the "residence premises" rented to others or held for rental by you not fit to live in, we cover the fair rental value of such premises less any expenses that do not continue while it is not fit to live in.

Payment will be for the shortest time required to repair or replace such premises.

##### **3. Civil Authority Prohibits Use**

If a civil authority prohibits you from use of the "residence premises" as a result of direct damage to neighboring premises by a Peril Insured Against, we cover the loss as provided in 1. Additional Living Expense and 2. Fair Rental Value above for no more than two weeks.

##### **4. Loss Or Expense Not Covered**

We do not cover loss or expense due to cancellation of a lease or agreement.

The periods of time under 1. Additional Living Expense, 2. Fair Rental Value and 3. Civil Authority Prohibits Use above are not limited by expiration of this policy.

#### **E. Additional Coverages**

##### **1. Debris Removal**

a. We will pay your reasonable expense for the removal of:

- (1) Debris of covered property if a Peril Insured Against that applies to the damaged property causes the loss; or
- (2) Ash, dust or particles from a volcanic eruption that has caused direct loss to a building or property contained in a building.

This expense is included in the limit of liability that applies to the damaged property. If the amount to be paid for the actual damage to the property plus the debris removal expense is more than the limit of liability for the damaged property, an additional 5% of that limit is available for such expense.

b. We will also pay your reasonable expense, up to \$1,000, for the removal from the "residence premises" of:

- (1) Your tree(s) felled by the peril of Wind-storm or Hail or Weight of Ice, Snow or Sleet; or
- (2) A neighbor's tree(s) felled by a Peril Insured Against under Coverage C;

provided the tree(s):

- (3) Damage(s) a covered structure; or
- (4) Does not damage a covered structure, but:

(a) Block(s) a driveway on the "residence premises" which prevent(s) a "motor vehicle", that is registered for use on public roads or property, from entering or leaving the "residence premises"; or

(b) Block(s) a ramp or other fixture designed to assist a handicapped person to enter or leave the dwelling building.

The \$1,000 limit is the most we will pay in any one loss regardless of the number of fallen trees. No more than \$500 of this limit will be paid for the removal of any one tree.

This coverage is additional insurance.

##### **2. Reasonable Repairs**

a. We will pay the reasonable cost incurred by you for the necessary measures taken solely to protect covered property that is damaged by a Peril Insured Against from further damage.

- b. If the measures taken involve repair to other damaged property, we will only pay if that property is covered under this policy and the damage is caused by a Peril Insured Against. This coverage does not:

- (1) Increase the limit of liability that applies to the covered property; or
- (2) Relieve you of your duties, in case of a loss to covered property, described in B.4. under Section I – Conditions.

### 3. Trees, Shrubs And Other Plants

We cover trees, shrubs, plants or lawns, on the "residence premises", for loss caused by the following Perils Insured Against:

- a. Fire or Lightning;
- b. Explosion;
- c. Riot or Civil Commotion;
- d. Aircraft;
- e. Vehicles not owned or operated by a resident of the "residence premises";
- f. Vandalism or Malicious Mischief; or
- g. Theft.

We will pay up to 5% of the limit of liability that applies to the dwelling for all trees, shrubs, plants or lawns. No more than \$500 of this limit will be paid for any one tree, shrub or plant. We do not cover property grown for "business" purposes.

This coverage is additional insurance.

### 4. Fire Department Service Charge

We will pay up to \$500 for your liability assumed by contract or agreement for fire department charges incurred when the fire department is called to save or protect covered property from a Peril Insured Against. We do not cover fire department service charges if the property is located within the limits of the city, municipality or protection district furnishing the fire department response.

This coverage is additional insurance. No deductible applies to this coverage.

### 5. Property Removed

We insure covered property against direct loss from any cause while being removed from a premises endangered by a Peril Insured Against and for no more than 30 days while removed.

This coverage does not change the limit of liability that applies to the property being removed.

### 6. Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money

a. We will pay up to \$500 for:

- (1) The legal obligation of an "insured" to pay because of the theft or unauthorized use of credit cards issued to or registered in an "insured's" name;
- (2) Loss resulting from theft or unauthorized use of an electronic fund transfer card or access device used for deposit, withdrawal or transfer of funds, issued to or registered in an "insured's" name;
- (3) Loss to an "insured" caused by forgery or alteration of any check or negotiable instrument; and
- (4) Loss to an "insured" through acceptance in good faith of counterfeit United States or Canadian paper currency.

All loss resulting from a series of acts committed by any one person or in which any one person is concerned or implicated is considered to be one loss.

This coverage is additional insurance. No deductible applies to this coverage.

b. We do not cover:

- (1) Use of a credit card, electronic fund transfer card or access device:
  - (a) By a resident of your household;
  - (b) By a person who has been entrusted with either type of card or access device; or
  - (c) If an "insured" has not complied with all terms and conditions under which the cards are issued or the devices accessed; or
- (2) Loss arising out of "business" use or dishonesty of an "insured".

c. If the coverage in a. above applies, the following defense provisions also apply:

- (1) We may investigate and settle any claim or suit that we decide is appropriate. Our duty to defend a claim or suit ends when the amount we pay for the loss equals our limit of liability.
- (2) If a suit is brought against an "insured" for liability under a.(1) or (2) above, we will provide a defense at our expense by counsel of our choice.
- (3) We have the option to defend at our expense an "insured" or an "insured's" bank against any suit for the enforcement of payment under a.(3) above.

## 7. Loss Assessment

- a. We will pay up to \$1,000 for your share of loss assessment charged during the policy period against you, as owner or tenant of the "residence premises", by a corporation or association of property owners. The assessment must be made as a result of direct loss to property, owned by all members collectively, of the type that would be covered by this policy if owned by you, caused by a Peril Insured Against under Coverage A, other than:

- (1) Earthquake; or
- (2) Land shock waves or tremors before, during or after a volcanic eruption.

The limit of \$1,000 is the most we will pay with respect to any one loss, regardless of the number of assessments. We will only apply one deductible, per unit, to the total amount of any one loss to the property described above, regardless of the number of assessments.

- b. We do not cover assessments charged against you or a corporation or association of property owners by any governmental body.

- c. Paragraph P. Policy Period under Section I – Conditions does not apply to this coverage.

This coverage is additional insurance.

## 8. Collapse

- a. With respect to this Additional Coverage:

- (1) Collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its current intended purpose.
- (2) A building or any part of a building that is in danger of falling down or caving in is not considered to be in a state of collapse.
- (3) A part of a building that is standing is not considered to be in a state of collapse even if it has separated from another part of the building.
- (4) A building or any part of a building that is standing is not considered to be in a state of collapse even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

- b. We insure for direct physical loss to covered property involving collapse of a building or any part of a building if the collapse was caused by one or more of the following:

- (1) The Perils Insured Against named under Coverage C;
- (2) Decay that is hidden from view, unless the presence of such decay is known to an "insured" prior to collapse;
- (3) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an "insured" prior to collapse;
- (4) Weight of contents, equipment, animals or people;
- (5) Weight of rain which collects on a roof; or
- (6) Use of defective material or methods in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation.

- c. Loss to an awning, fence, patio, deck, pavement, swimming pool, underground pipe, flue, drain, cesspool, septic tank, foundation, retaining wall, bulkhead, pier, wharf or dock is not included under b.(2) through (6) above, unless the loss is a direct result of the collapse of a building or any part of a building.

- d. This coverage does not increase the limit of liability that applies to the damaged covered property.

## 9. Glass Or Safety Glazing Material

- a. We cover:

- (1) The breakage of glass or safety glazing material which is part of a covered building, storm door or storm window;
- (2) The breakage of glass or safety glazing material which is part of a covered building, storm door or storm window when caused directly by earth movement; and
- (3) The direct physical loss to covered property caused solely by the pieces, fragments or splinters of broken glass or safety glazing material which is part of a building, storm door or storm window.

b. This coverage does not include loss:

- (1) To covered property which results because the glass or safety glazing material has been broken, except as provided in a.(3) above; or
- (2) On the "residence premises" if the dwelling has been vacant for more than 60 consecutive days immediately before the loss, except when the breakage results directly from earth movement as provided in a.(2) above. A dwelling being constructed is not considered vacant.

c. This coverage does not increase the limit of liability that applies to the damaged property.

#### 10. Landlord's Furnishings

We will pay up to \$2,500 for your appliances, carpeting and other household furnishings, in each apartment on the "residence premises" regularly rented or held for rental to others by an "insured", for loss caused by a Peril Insured Against in Coverage C, other than Theft.

This limit is the most we will pay in any one loss regardless of the number of appliances, carpeting or other household furnishings involved in the loss.

This coverage does not increase the limit of liability applying to the damaged property.

#### 11. Ordinance Or Law

a. You may use up to 10% of the limit of liability that applies to Coverage A for the increased costs you incur due to the enforcement of any ordinance or law which requires or regulates:

- (1) The construction, demolition, remodeling, renovation or repair of that part of a covered building or other structure damaged by a Peril Insured Against;
- (2) The demolition and reconstruction of the undamaged part of a covered building or other structure, when that building or other structure must be totally demolished because of damage by a Peril Insured Against to another part of that covered building or other structure; or
- (3) The remodeling, removal or replacement of the portion of the undamaged part of a covered building or other structure necessary to complete the remodeling, repair or replacement of that part of the covered building or other structure damaged by a Peril Insured Against.

b. You may use all or part of this ordinance or law coverage to pay for the increased costs you incur to remove debris resulting from the construction, demolition, remodeling, renovation, repair or replacement of property as stated in a. above.

c. We do not cover:

- (1) The loss in value to any covered building or other structure due to the requirements of any ordinance or law; or
- (2) The costs to comply with any ordinance or law which requires any "insured" or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, pollutants in or on any covered building or other structure.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

This coverage is additional insurance.

#### 12. Grave Markers

We will pay up to \$5,000 for grave markers, including mausoleums, on or away from the "residence premises" for loss caused by a Peril Insured Against under Coverage C.

This coverage does not increase the limits of liability that apply to the damaged covered property.

### SECTION I – PERILS INSURED AGAINST

#### A. Coverage A – Dwelling And Coverage B – Other Structures

1. We insure against risk of direct physical loss to property described in Coverages A and B.

2. We do not insure, however, for loss:

- a. Excluded under Section I – Exclusions;
- b. Involving collapse, except as provided in E.8. Collapse under Section I – Property Coverages; or

c. Caused by:

- (1) Freezing of a plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance, or by discharge, leakage or overflow from within the system or appliance caused by freezing. This provision does not apply if you have used reasonable care to:
  - (a) Maintain heat in the building; or

- (b) Shut off the water supply and drain all systems and appliances of water.

However, if the building is protected by an automatic fire protective sprinkler system, you must use reasonable care to continue the water supply and maintain heat in the building for coverage to apply.

For purposes of this provision a plumbing system or household appliance does not include a sump, sump pump or related equipment or a roof drain, gutter, downspout or similar fixtures or equipment;

- (2) Freezing, thawing, pressure or weight of water or ice, whether driven by wind or not, to a:
  - (a) Fence, pavement, patio or swimming pool;
  - (b) Footing, foundation, bulkhead, wall, or any other structure or device that supports all or part of a building, or other structure;
  - (c) Retaining wall or bulkhead that does not support all or part of a building or other structure; or
  - (d) Pier, wharf or dock;
- (3) Theft in or to a dwelling under construction, or of materials and supplies for use in the construction until the dwelling is finished and occupied;
- (4) Vandalism and malicious mischief, and any ensuing loss caused by any intentional and wrongful act committed in the course of the vandalism or malicious mischief, if the dwelling has been vacant for more than 60 consecutive days immediately before the loss. A dwelling being constructed is not considered vacant;
- (5) Mold, fungus or wet rot. However, we do insure for loss caused by mold, fungus or wet rot that is hidden within the walls or ceilings or beneath the floors or above the ceilings of a structure if such loss results from the accidental discharge or overflow of water or steam from within:
  - (a) A plumbing, heating, air conditioning or automatic fire protective sprinkler system, or a household appliance, on the "residence premises"; or

- (b) A storm drain, or water, steam or sewer pipes, off the "residence premises".

For purposes of this provision, a plumbing system or household appliance does not include a sump, sump pump or related equipment or a roof drain, gutter, downspout or similar fixtures or equipment; or

- (6) Any of the following:

- (a) Wear and tear, marring, deterioration;
- (b) Mechanical breakdown, latent defect, inherent vice, or any quality in property that causes it to damage or destroy itself;
- (c) Smog, rust or other corrosion, or dry rot;
- (d) Smoke from agricultural smudging or industrial operations;
- (e) Discharge, dispersal, seepage, migration, release or escape of pollutants unless the discharge, dispersal, seepage, migration, release or escape is itself caused by a Peril Insured Against named under Coverage C.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed;

- (f) Settling, shrinking, bulging or expansion, including resultant cracking, of bulkheads, pavements, patios, footings, foundations, walls, floors, roofs or ceilings;
- (g) Birds, vermin, rodents, or insects; or
- (h) Animals owned or kept by an "insured".

#### Exception To c.(6)

Unless the loss is otherwise excluded, we cover loss to property covered under Coverage A or B resulting from an accidental discharge or overflow of water or steam from within a:

- (i) Storm drain, or water, steam or sewer pipe, off the "residence premises"; or

- (ii) Plumbing, heating, air conditioning or automatic fire protective sprinkler system or household appliance on the "residence premises". This includes the cost to tear out and replace any part of a building, or other structure, on the "residence premises", but only when necessary to repair the system or appliance. However, such tear out and replacement coverage only applies to other structures if the water or steam causes actual damage to a building on the "residence premises".

We do not cover loss to the system or appliance from which this water or steam escaped.

For purposes of this provision, a plumbing system or household appliance does not include a sump, sump pump or related equipment or a roof drain, gutter, down spout or similar fixtures or equipment.

Section I – Exclusion A.3. Water Damage, Paragraphs a. and c. that apply to surface water and water below the surface of the ground do not apply to loss by water covered under c.(5) and (6) above.

Under 2.b. and c. above, any ensuing loss to property described in Coverages A and B not precluded by any other provision in this policy is covered.

## **B. Coverage C – Personal Property**

We insure for direct physical loss to the property described in Coverage C caused by any of the following perils unless the loss is excluded in Section I – Exclusions.

### **1. Fire Or Lightning**

### **2. Windstorm Or Hail**

This peril includes loss to watercraft of all types and their trailers, furnishings, equipment, and outboard engines or motors, only while inside a fully enclosed building.

This peril does not include loss to the property contained in a building caused by rain, snow, sleet, sand or dust unless the direct force of wind or hail damages the building causing an opening in a roof or wall and the rain, snow, sleet, sand or dust enters through this opening.

### **3. Explosion**

### **4. Riot Or Civil Commotion**

### **5. Aircraft**

This peril includes self-propelled missiles and spacecraft.

## **6. Vehicles**

## **7. Smoke**

This peril means sudden and accidental damage from smoke, including the emission or puffback of smoke, soot, fumes or vapors from a boiler, furnace or related equipment.

This peril does not include loss caused by smoke from agricultural smudging or industrial operations.

## **8. Vandalism Or Malicious Mischief**

## **9. Theft**

- a. This peril includes attempted theft and loss of property from a known place when it is likely that the property has been stolen.

- b. This peril does not include loss caused by theft:

- (1) Committed by an "insured";
- (2) In or to a dwelling under construction, or of materials and supplies for use in the construction until the dwelling is finished and occupied;
- (3) From that part of a "residence premises" rented by an "insured" to someone other than another "insured"; or
- (4) That occurs off the "residence premises" of:

- (a) Trailers, semitrailers and campers;
- (b) Watercraft of all types, and their furnishings, equipment and outboard engines or motors; or
- (c) Property while at any other residence owned by, rented to, or occupied by an "insured", except while an "insured" is temporarily living there. Property of an "insured" who is a student is covered while at the residence the student occupies to attend school as long as the student has been there at any time during the 60 days immediately before the loss.

## **10. Falling Objects**

This peril does not include loss to property contained in a building unless the roof or an outside wall of the building is first damaged by a falling object. Damage to the falling object itself is not included.

## **11. Weight Of Ice, Snow Or Sleet**

This peril means weight of ice, snow or sleet which causes damage to property contained in a building.

## 12. Accidental Discharge Or Overflow Of Water Or Steam

- a. This peril means accidental discharge or overflow of water or steam from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or from within a household appliance.
- b. This peril does not include loss:
  - (1) To the system or appliance from which the water or steam escaped;
  - (2) Caused by or resulting from freezing except as provided in Peril Insured Against 14. Freezing;
  - (3) On the "residence premises" caused by accidental discharge or overflow which occurs off the "residence premises"; or
  - (4) Caused by mold, fungus or wet rot unless hidden within the walls or ceilings or beneath the floors or above the ceilings of a structure.
- c. In this peril, a plumbing system or household appliance does not include a sump, sump pump or related equipment or a roof drain, gutter, downspout or similar fixtures or equipment.
- d. Section I – Exclusion A.3. Water Damage, Paragraphs a. and c. that apply to surface water and water below the surface of the ground do not apply to loss by water covered under this peril.

## 13. Sudden And Accidental Tearing Apart, Cracking, Burning Or Bulging

This peril means sudden and accidental tearing apart, cracking, burning or bulging of a steam or hot water heating system, an air conditioning or automatic fire protective sprinkler system, or an appliance for heating water.

We do not cover loss caused by or resulting from freezing under this peril.

## 14. Freezing

- a. This peril means freezing of a plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance but only if you have used reasonable care to:
  - (1) Maintain heat in the building; or
  - (2) Shut off the water supply and drain all systems and appliances of water.

However, if the building is protected by an automatic fire protective sprinkler system, you must use reasonable care to continue the water supply and maintain heat in the building for coverage to apply.

- b. In this peril, a plumbing system or household appliance does not include a sump, sump pump or related equipment or a roof drain, gutter, downspout or similar fixtures or equipment.

## 15. Sudden And Accidental Damage From Artificially Generated Electrical Current

This peril does not include loss to tubes, transistors, electronic components or circuitry that are a part of appliances, fixtures, computers, home entertainment units or other types of electronic apparatus.

## 16. Volcanic Eruption

This peril does not include loss caused by earthquake, land shock waves or tremors.

## SECTION I – EXCLUSIONS

- A. We do not insure for loss caused directly or indirectly by any of the following. Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

### 1. Ordinance Or Law

Ordinance Or Law means any ordinance or law:

- a. Requiring or regulating the construction, demolition, remodeling, renovation or repair of property, including removal of any resulting debris. This Exclusion A.1.a. does not apply to the amount of coverage that may be provided for in E.11. Ordinance Or Law under Section I – Property Coverages;
- b. The requirements of which result in a loss in value to property; or
- c. Requiring any "insured" or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, pollutants.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

This Exclusion A.1. applies whether or not the property has been physically damaged.

### 2. Earth Movement

Earth Movement means:

- a. Earthquake, including land shock waves or tremors before, during or after a volcanic eruption;



- b. Landslide, mudslide or mudflow;
  - c. Subsidence or sinkhole; or
  - d. Any other earth movement including earth sinking, rising or shifting;
- caused by or resulting from human or animal forces or any act of nature unless direct loss by fire or explosion ensues and then we will pay only for the ensuing loss.

This Exclusion A.2. does not apply to loss by theft.

### 3. Water Damage

Water Damage means:

- a. Flood, surface water, waves, tidal water, overflow of a body of water, or spray from any of these, whether or not driven by wind;
- b. Water or water-borne material which backs up through sewers or drains or which overflows or is discharged from a sump, sump pump or related equipment; or
- c. Water or water-borne material below the surface of the ground, including water which exerts pressure on or seeps or leaks through a building, sidewalk, driveway, foundation, swimming pool or other structure;

caused by or resulting from human or animal forces or any act of nature.

Direct loss by fire, explosion or theft resulting from water damage is covered.

### 4. Power Failure

Power Failure means the failure of power or other utility service if the failure takes place off the "residence premises". But if the failure results in a loss, from a Peril Insured Against on the "residence premises", we will pay for the loss caused by that peril.

### 5. Neglect

Neglect means neglect of an "insured" to use all reasonable means to save and preserve property at and after the time of a loss.

### 6. War

War includes the following and any consequence of any of the following:

- a. Undeclared war, civil war, insurrection, rebellion or revolution;
- b. Warlike act by a military force or military personnel; or
- c. Destruction, seizure or use for a military purpose.

Discharge of a nuclear weapon will be deemed a warlike act even if accidental.

### 7. Nuclear Hazard

This Exclusion A.7. pertains to Nuclear Hazard to the extent set forth in M. Nuclear Hazard Clause under Section I – Conditions.

### 8. Intentional Loss

Intentional Loss means any loss arising out of any act an "insured" commits or conspires to commit with the intent to cause a loss.

In the event of such loss, no "insured" is entitled to coverage, even "insureds" who did not commit or conspire to commit the act causing the loss.

### 9. Governmental Action

Governmental Action means the destruction, confiscation or seizure of property described in Coverage A, B or C by order of any governmental or public authority.

This exclusion does not apply to such acts ordered by any governmental or public authority that are taken at the time of a fire to prevent its spread, if the loss caused by fire would be covered under this policy.

- B. We do not insure for loss to property described in Coverages A and B caused by any of the following. However, any ensuing loss to property described in Coverages A and B not precluded by any other provision in this policy is covered.

- 1. Weather conditions. However, this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in A. above to produce the loss.
- 2. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.
- 3. Faulty, inadequate or defective:
  - a. Planning, zoning, development, surveying, siting;
  - b. Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
  - c. Materials used in repair, construction, renovation or remodeling; or
  - d. Maintenance;
 of part or all of any property whether on or off the "residence premises".

## SECTION I – CONDITIONS

### A. Insurable Interest And Limit Of Liability

Even if more than one person has an insurable interest in the property covered, we will not be liable in any one loss:

1. To an "insured" for more than the amount of such "insured's" interest at the time of loss; or
2. For more than the applicable limit of liability.

### B. Duties After Loss

In case of a loss to covered property, we have no duty to provide coverage under this policy if the failure to comply with the following duties is prejudicial to us. These duties must be performed either by you, an "insured" seeking coverage, or a representative of either:

1. Give prompt notice to us or our agent;
2. Notify the police in case of loss by theft;
3. Notify the credit card or electronic fund transfer card or access device company in case of loss as provided for in E.6. Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money under Section I – Property Coverages;
4. Protect the property from further damage. If repairs to the property are required, you must:
  - a. Make reasonable and necessary repairs to protect the property; and
  - b. Keep an accurate record of repair expenses;
5. Cooperate with us in the investigation of a claim;
6. Prepare an inventory of damaged personal property showing the quantity, description, actual cash value and amount of loss. Attach all bills, receipts and related documents that justify the figures in the inventory;
7. As often as we reasonably require:
  - a. Show the damaged property;
  - b. Provide us with records and documents we request and permit us to make copies; and
  - c. Submit to examination under oath, while not in the presence of another "insured", and sign the same;
8. Send to us, within 60 days after our request, your signed, sworn proof of loss which sets forth, to the best of your knowledge and belief:
  - a. The time and cause of loss;
  - b. The interests of all "insureds" and all others in the property involved and all liens on the property;
  - c. Other insurance which may cover the loss;

- d. Changes in title or occupancy of the property during the term of the policy;
- e. Specifications of damaged buildings and detailed repair estimates;
- f. The inventory of damaged personal property described in 6. above;
- g. Receipts for additional living expenses incurred and records that support the fair rental value loss; and
- h. Evidence or affidavit that supports a claim under E.6. Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money under Section I – Property Coverages, stating the amount and cause of loss.

### C. Loss Settlement

In this Condition C., the terms "cost to repair or replace" and "replacement cost" do not include the increased costs incurred to comply with the enforcement of any ordinance or law, except to the extent that coverage for these increased costs is provided in E.11. Ordinance Or Law under Section I – Property Coverages. Covered property losses are settled as follows:

1. Property of the following types:
  - a. Personal property;
  - b. Awnings, carpeting, household appliances, outdoor antennas and outdoor equipment, whether or not attached to buildings;
  - c. Structures that are not buildings; and
  - d. Grave markers, including mausoleums;at actual cash value at the time of loss but not more than the amount required to repair or replace.
2. Buildings covered under Coverage A or B at replacement cost without deduction for depreciation, subject to the following:
  - a. If, at the time of loss, the amount of insurance in this policy on the damaged building is 80% or more of the full replacement cost of the building immediately before the loss, we will pay the cost to repair or replace, after application of any deductible and without deduction for depreciation, but not more than the least of the following amounts:
    - (1) The limit of liability under this policy that applies to the building;
    - (2) The replacement cost of that part of the building damaged with material of like kind and quality and for like use; or
    - (3) The necessary amount actually spent to repair or replace the damaged building.

If the building is rebuilt at a new premises, the cost described in (2) above is limited to the cost which would have been incurred if the building had been built at the original premises.

- b. If, at the time of loss, the amount of insurance in this policy on the damaged building is less than 80% of the full replacement cost of the building immediately before the loss, we will pay the greater of the following amounts, but not more than the limit of liability under this policy that applies to the building:
- (1) The actual cash value of that part of the building damaged; or
  - (2) That proportion of the cost to repair or replace, after application of any deductible and without deduction for depreciation, that part of the building damaged, which the total amount of insurance in this policy on the damaged building bears to 80% of the replacement cost of the building.
- c. To determine the amount of insurance required to equal 80% of the full replacement cost of the building immediately before the loss, do not include the value of:
- (1) Excavations, footings, foundations, piers, or any other structures or devices that support all or part of the building, which are below the undersurface of the lowest basement floor;
  - (2) Those supports described in (1) above which are below the surface of the ground inside the foundation walls, if there is no basement; and
  - (3) Underground flues, pipes, wiring and drains.
- d. We will pay no more than the actual cash value of the damage until actual repair or replacement is complete. Once actual repair or replacement is complete, we will settle the loss as noted in 2.a. and b. above. However, if the cost to repair or replace the damage is both:
- (1) Less than 5% of the amount of insurance in this policy on the building; and
  - (2) Less than \$2,500;
- we will settle the loss as noted in 2.a. and b. above whether or not actual repair or replacement is complete.

- e. You may disregard the replacement cost loss settlement provisions and make claim under this policy for loss to buildings on an actual cash value basis. You may then make claim for any additional liability according to the provisions of this Condition C. Loss Settlement, provided you notify us of your intent to do so within 180 days after the date of loss.

#### **D. Loss To A Pair Or Set**

In case of loss to a pair or set we may elect to:

1. Repair or replace any part to restore the pair or set to its value before the loss; or
2. Pay the difference between actual cash value of the property before and after the loss.

#### **E. Appraisal**

If you and we fail to agree on the amount of loss, either may demand an appraisal of the loss. In this event, each party will choose a competent and impartial appraiser within 20 days after receiving a written request from the other. The two appraisers will choose an umpire. If they cannot agree upon an umpire within 15 days, you or we may request that the choice be made by a judge of a court of record in the state where the "residence premises" is located. The appraisers will separately set the amount of loss. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of loss.

Each party will:

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

#### **F. Other Insurance And Service Agreement**

If a loss covered by this policy is also covered by:

1. Other insurance, we will pay only the proportion of the loss that the limit of liability that applies under this policy bears to the total amount of insurance covering the loss; or
2. A service agreement, this insurance is excess over any amounts payable under any such agreement. Service agreement means a service plan, property restoration plan, home warranty or other similar service warranty agreement, even if it is characterized as insurance.

#### **G. Suit Against Us**

No action can be brought against us unless there has been full compliance with all of the terms under Section I of this policy and the action is started within two years after the date of loss.

#### H. Our Option

If we give you written notice within 30 days after we receive your signed, sworn proof of loss, we may repair or replace any part of the damaged property with material or property of like kind and quality.

#### I. Loss Payment

We will adjust all losses with you. We will pay you unless some other person is named in the policy or is legally entitled to receive payment. Loss will be payable 60 days after we receive your proof of loss and:

1. Reach an agreement with you;
2. There is an entry of a final judgment; or
3. There is a filing of an appraisal award with us.

#### J. Abandonment Of Property

We need not accept any property abandoned by an "insured".

#### K. Mortgage Clause

1. If a mortgagee is named in this policy, any loss payable under Coverage A or B will be paid to the mortgagee and you, as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of precedence of the mortgages.
2. If we deny your claim, that denial will not apply to a valid claim of the mortgagee, if the mortgagee:
  - a. Notifies us of any change in ownership, occupancy or substantial change in risk of which the mortgagee is aware;
  - b. Pays any premium due under this policy on demand if you have neglected to pay the premium; and
  - c. Submits a signed, sworn statement of loss within 60 days after receiving notice from us of your failure to do so. Paragraphs E. Appraisal, G. Suit Against Us and I. Loss Payment under Section I – Conditions also apply to the mortgagee.
3. If we decide to cancel or not to renew this policy, the mortgagee will be notified at least 10 days before the date cancellation or nonrenewal takes effect.
4. If we pay the mortgagee for any loss and deny payment to you:
  - a. We are subrogated to all the rights of the mortgagee granted under the mortgage on the property; or

- b. At our option, we may pay to the mortgagee the whole principal on the mortgage plus any accrued interest. In this event, we will receive a full assignment and transfer of the mortgage and all securities held as collateral to the mortgage debt.

5. Subrogation will not impair the right of the mortgagee to recover the full amount of the mortgagee's claim.

#### L. No Benefit To Bailee

We will not recognize any assignment or grant any coverage that benefits a person or organization holding, storing or moving property for a fee regardless of any other provision of this policy.

#### M. Nuclear Hazard Clause

1. "Nuclear Hazard" means any nuclear reaction, radiation, or radioactive contamination, all whether controlled or uncontrolled or however caused, or any consequence of any of these.
2. Loss caused by the nuclear hazard will not be considered loss caused by fire, explosion, or smoke, whether these perils are specifically named in or otherwise included within the Perils Insured Against.
3. This policy does not apply under Section I to loss caused directly or indirectly by nuclear hazard, except that direct loss by fire resulting from the nuclear hazard is covered.

#### N. Recovered Property

If you or we recover any property for which we have made payment under this policy, you or we will notify the other of the recovery. At your option, the property will be returned to or retained by you or it will become our property. If the recovered property is returned to or retained by you, the loss payment will be adjusted based on the amount you received for the recovered property.

#### O. Volcanic Eruption Period

One or more volcanic eruptions that occur within a 72 hour period will be considered as one volcanic eruption.

#### P. Policy Period

This policy applies only to loss which occurs during the policy period.

#### Q. Concealment Or Fraud

We provide coverage to no "insureds" under this policy if, whether before or after a loss, an "insured" has:

1. Intentionally concealed or misrepresented any material fact or circumstance;

2. Engaged in fraudulent conduct; or
3. Made false statements;  
relating to this insurance.

#### R. Loss Payable Clause

If the Declarations show a loss payee for certain listed insured personal property, the definition of "insured" is changed to include that loss payee with respect to that property.

If we decide to cancel or not renew this policy, that loss payee will be notified in writing.

## SECTION II – LIABILITY COVERAGES

### A. Coverage E – Personal Liability

If a claim is made or a suit is brought against an "insured" for damages because of "bodily injury" or "property damage" caused by an "occurrence" to which this coverage applies, we will:

1. Pay up to our limit of liability for the damages for which an "insured" is legally liable. Damages include prejudgment interest awarded against an "insured"; and
2. Provide a defense at our expense by counsel of our choice, even if the suit is groundless, false or fraudulent. We may investigate and settle any claim or suit that we decide is appropriate. Our duty to settle or defend ends when our limit of liability for the "occurrence" has been exhausted by payment of a judgment or settlement.

### B. Coverage F – Medical Payments To Others

We will pay the necessary medical expenses that are incurred or medically ascertained within three years from the date of an accident causing "bodily injury". Medical expenses means reasonable charges for medical, surgical, x-ray, dental, ambulance, hospital, professional nursing, prosthetic devices and funeral services. This coverage does not apply to you or regular residents of your household except "residence employees". As to others, this coverage applies only:

1. To a person on the "insured location" with the permission of an "insured"; or
2. To a person off the "insured location", if the "bodily injury":
  - a. Arises out of a condition on the "insured location" or the ways immediately adjoining;
  - b. Is caused by the activities of an "insured";
  - c. Is caused by a "residence employee" in the course of the "residence employee's" employment by an "insured"; or
  - d. Is caused by an animal owned by or in the care of an "insured".

## SECTION II – EXCLUSIONS

### A. "Motor Vehicle Liability"

1. Coverages E and F do not apply to any "motor vehicle liability" if, at the time and place of an "occurrence", the involved "motor vehicle":
  - a. Is registered for use on public roads or property;
  - b. Is not registered for use on public roads or property, but such registration is required by a law, or regulation issued by a government agency, for it to be used at the place of the "occurrence"; or
  - c. Is being:
    - (1) Operated in, or practicing for, any prearranged or organized race, speed contest or other competition;
    - (2) Rented to others;
    - (3) Used to carry persons or cargo for a charge; or
    - (4) Used for any "business" purpose except for a motorized golf cart while on a golfing facility.
2. If Exclusion A.1. does not apply, there is still no coverage for "motor vehicle liability" unless the "motor vehicle" is:
  - a. In dead storage on an "insured location";
  - b. Used solely to service an "insured's" residence;
  - c. Designed to assist the handicapped and, at the time of an "occurrence", it is:
    - (1) Being used to assist a handicapped person; or
    - (2) Parked on an "insured location";
  - d. Designed for recreational use off public roads and:
    - (1) Not owned by an "insured"; or
    - (2) Owned by an "insured" provided the "occurrence" takes place on an "insured location" as defined in Definitions B. 6.a., b., d., e. or h.; or
  - e. A motorized golf cart that is owned by an "insured", designed to carry up to 4 persons, not built or modified after manufacture to exceed a speed of 25 miles per hour on level ground and, at the time of an "occurrence", is within the legal boundaries of:
    - (1) A golfing facility and is parked or stored there, or being used by an "insured" to:
      - (a) Play the game of golf or for other recreational or leisure activity allowed by the facility;

- (b) Travel to or from an area where "motor vehicles" or golf carts are parked or stored; or
- (c) Cross public roads at designated points to access other parts of the golfing facility; or
- (2) A private residential community, including its public roads upon which a motorized golf cart can legally travel, which is subject to the authority of a property owners association and contains an "insured's" residence.

#### B. "Watercraft Liability"

1. Coverages E and F do not apply to any "watercraft liability" if, at the time of an "occurrence", the involved watercraft is being:
  - a. Operated in, or practicing for, any prearranged or organized race, speed contest or other competition. This exclusion does not apply to a sailing vessel or a predicted log cruise;
  - b. Rented to others;
  - c. Used to carry persons or cargo for a charge; or
  - d. Used for any "business" purpose.
2. If Exclusion B.1. does not apply, there is still no coverage for "watercraft liability" unless, at the time of the "occurrence", the watercraft:
  - a. Is stored;
  - b. Is a sailing vessel, with or without auxiliary power, that is:
    - (1) Less than 26 feet in overall length; or
    - (2) 26 feet or more in overall length and not owned by or rented to an "insured"; or
  - c. Is not a sailing vessel and is powered by:
    - (1) An inboard or inboard-outdrive engine or motor, including those that power a water jet pump, of:
      - (a) 50 horsepower or less and not owned by an "insured"; or
      - (b) More than 50 horsepower and not owned by or rented to an "insured"; or
    - (2) One or more outboard engines or motors with:
      - (a) 25 total horsepower or less;
      - (b) More than 25 horsepower if the outboard engine or motor is not owned by an "insured";
      - (c) More than 25 horsepower if the outboard engine or motor is owned by an "insured" who acquired it during the policy period; or

- (d) More than 25 horsepower if the outboard engine or motor is owned by an "insured" who acquired it before the policy period, but only if:
  - (i) You declare them at policy inception; or
  - (ii) Your intent to insure them is reported to us in writing within 45 days after you acquire them.

The coverages in (c) and (d) above apply for the policy period.

Horsepower means the maximum power rating assigned to the engine or motor by the manufacturer.

#### C. "Aircraft Liability"

This policy does not cover "aircraft liability".

#### D. "Hovercraft Liability"

This policy does not cover "hovercraft liability".

#### E. Coverage E – Personal Liability And Coverage F – Medical Payments To Others

Coverages E and F do not apply to the following:

##### 1. Expected Or Intended Injury

"Bodily injury" or "property damage" which is expected or intended by an "insured" even if the resulting "bodily injury" or "property damage":

- a. Is of a different kind, quality or degree than initially expected or intended; or
- b. Is sustained by a different person, entity, real or personal property, than initially expected or intended.

However, this Exclusion E.1. does not apply to "bodily injury" resulting from the use of reasonable force by an "insured" to protect persons or property;

##### 2. "Business"

- a. "Bodily injury" or "property damage" arising out of or in connection with a "business" conducted from an "insured location" or engaged in by an "insured", whether or not the "business" is owned or operated by an "insured" or employs an "insured".

This Exclusion E.2. applies but is not limited to an act or omission, regardless of its nature or circumstance, involving a service or duty rendered, promised, owed, or implied to be provided because of the nature of the "business".

- b. This Exclusion E.2. does not apply to:

- (1) The rental or holding for rental of an "insured location";

- (a) On an occasional basis if used only as a residence;
    - (b) In part for use only as a residence, unless a single family unit is intended for use by the occupying family to lodge more than two roomers or boarders; or
    - (c) In part, as an office, school, studio or private garage; and
  - (2) An "insured" under the age of 21 years involved in a part-time or occasional, self-employed "business" with no employees;
- 3. Professional Services**
- "Bodily injury" or "property damage" arising out of the rendering of or failure to render professional services;
- 4. "Insured's" Premises Not An "Insured Location"**
- "Bodily injury" or "property damage" arising out of a premises:
- a. Owned by an "insured";
  - b. Rented to an "insured"; or
  - c. Rented to others by an "insured";
- that is not an "insured location";
- 5. War**
- "Bodily injury" or "property damage" caused directly or indirectly by war, including the following and any consequence of any of the following:
- a. Undeclared war, civil war, insurrection, rebellion or revolution;
  - b. Warlike act by a military force or military personnel; or
  - c. Destruction, seizure or use for a military purpose.
- Discharge of a nuclear weapon will be deemed a warlike act even if accidental;
- 6. Communicable Disease**
- "Bodily injury" or "property damage" which arises out of the transmission of a communicable disease by an "insured";
- 7. Sexual Molestation, Corporal Punishment Or Physical Or Mental Abuse**
- "Bodily injury" or "property damage" arising out of sexual molestation, corporal punishment or physical or mental abuse; or

## 8. Controlled Substance

"Bodily injury" or "property damage" arising out of the use, sale, manufacture, delivery, transfer or possession by any person of a Controlled Substance as defined by the Federal Food and Drug Law at 21 U.S.C.A. Sections 811 and 812. Controlled Substances include but are not limited to cocaine, LSD, marijuana and all narcotic drugs. However, this exclusion does not apply to the legitimate use of prescription drugs by a person following the orders of a licensed physician.

Exclusions A. "Motor Vehicle Liability", B. "Watercraft Liability", C. "Aircraft Liability", D. "Hovercraft Liability" and E.4. "Insured's" Premises Not An "Insured Location" do not apply to "bodily injury" to a "residence employee" arising out of and in the course of the "residence employee's" employment by an "insured".

## F. Coverage E – Personal Liability

Coverage E does not apply to:

### 1. Liability:

- a. For any loss assessment charged against you as a member of an association, corporation or community of property owners, except as provided in D. Loss Assessment under Section II – Additional Coverages;
- b. Under any contract or agreement entered into by an "insured". However, this exclusion does not apply to written contracts:
  - (1) That directly relate to the ownership, maintenance or use of an "insured location"; or
  - (2) Where the liability of others is assumed by you prior to an "occurrence";

unless excluded in a. above or elsewhere in this policy;
- 2. "Property damage" to property owned by an "insured". This includes costs or expenses incurred by an "insured" or others to repair, replace, enhance, restore or maintain such property to prevent injury to a person or damage to property of others, whether on or away from an "insured location";
- 3. "Property damage" to property rented to, occupied or used by or in the care of an "insured". This exclusion does not apply to "property damage" caused by fire, smoke or explosion;
- 4. "Bodily injury" to any person eligible to receive any benefits voluntarily provided or required to be provided by an "insured" under any:
  - a. Workers' compensation law;

- b. Non-occupational disability law; or
- c. Occupational disease law;
- 5. "Bodily injury" or "property damage" for which an "insured" under this policy:
  - a. Is also an insured under a nuclear energy liability policy issued by the:
    - (1) Nuclear Energy Liability Insurance Association;
    - (2) Mutual Atomic Energy Liability Underwriters;
    - (3) Nuclear Insurance Association of Canada;
 or any of their successors; or
  - b. Would be an insured under such a policy but for the exhaustion of its limit of liability; or
- 6. "Bodily injury" to you or an "insured" as defined under Definitions 5.a. or b.  
 This exclusion also applies to any claim made or suit brought against you or an "insured":
  - a. To repay; or
  - b. Share damages with;  
 another person who may be obligated to pay damages because of "bodily injury" to an "insured".

#### **G. Coverage F – Medical Payments To Others**

Coverage F does not apply to "bodily injury":

- 1. To a "residence employee" if the "bodily injury":
  - a. Occurs off the "insured location"; and
  - b. Does not arise out of or in the course of the "residence employee's" employment by an "insured";
- 2. To any person eligible to receive benefits voluntarily provided or required to be provided under any:
  - a. Workers' compensation law;
  - b. Non-occupational disability law; or
  - c. Occupational disease law;
- 3. From any:
  - a. Nuclear reaction;
  - b. Nuclear radiation; or
  - c. Radioactive contamination;
 all whether controlled or uncontrolled or how-ever caused; or
  - d. Any consequence of any of these; or
- 4. To any person, other than a "residence employee" of an "insured", regularly residing on any part of the "insured location".

## **SECTION II – ADDITIONAL COVERAGES**

We cover the following in addition to the limits of liability:

### **A. Claim Expenses**

We pay:

- 1. Expenses we incur and costs taxed against an "insured" in any suit we defend;
- 2. Premiums on bonds required in a suit we defend, but not for bond amounts more than the Coverage E limit of liability. We need not apply for or furnish any bond;
- 3. Reasonable expenses incurred by an "insured" at our request, including actual loss of earnings (but not loss of other income) up to \$250 per day, for assisting us in the investigation or defense of a claim or suit; and
- 4. Interest on the entire judgment which accrues after entry of the judgment and before we pay or tender, or deposit in court that part of the judgment which does not exceed the limit of liability that applies.

### **B. First Aid Expenses**

We will pay expenses for first aid to others incurred by an "insured" for "bodily injury" covered under this policy. We will not pay for first aid to an "insured".

### **C. Damage To Property Of Others**

- 1. We will pay, at replacement cost, up to \$1,000 per "occurrence" for "property damage" to property of others caused by an "insured".
- 2. We will not pay for "property damage":
  - a. To the extent of any amount recoverable under Section I;
  - b. Caused intentionally by an "insured" who is 13 years of age or older;
  - c. To property owned by an "insured";
  - d. To property owned by or rented to a tenant of an "insured" or a resident in your household; or
  - e. Arising out of:
    - (1) A "business" engaged in by an "insured";
    - (2) Any act or omission in connection with a premises owned, rented or controlled by an "insured", other than the "insured location"; or
    - (3) The ownership, maintenance, occupancy, operation, use, loading or unloading of aircraft, hovercraft, watercraft or "motor vehicles".



This exclusion e.(3) does not apply to a "motor vehicle" that:

- (a) Is designed for recreational use off public roads;
- (b) Is not owned by an "insured"; and
- (c) At the time of the "occurrence", is not required by law, or regulation issued by a government agency, to have been registered for it to be used on public roads or property.

#### **D. Loss Assessment**

1. We will pay up to \$1,000 for your share of loss assessment charged against you, as owner or tenant of the "residence premises", during the policy period by a corporation or association of property owners, when the assessment is made as a result of:
  - a. "Bodily injury" or "property damage" not excluded from coverage under Section II – Exclusions; or
  - b. Liability for an act of a director, officer or trustee in the capacity as a director, officer or trustee, provided such person:
    - (1) Is elected by the members of a corporation or association of property owners; and
    - (2) Serves without deriving any income from the exercise of duties which are solely on behalf of a corporation or association of property owners.
2. Paragraph I. Policy Period under Section II – Conditions does not apply to this Loss Assessment Coverage.
3. Regardless of the number of assessments, the limit of \$1,000 is the most we will pay for loss arising out of:
  - a. One accident, including continuous or repeated exposure to substantially the same general harmful condition; or
  - b. A covered act of a director, officer or trustee. An act involving more than one director, officer or trustee is considered to be a single act.
4. We do not cover assessments charged against you or a corporation or association of property owners by any governmental body.

## **SECTION II – CONDITIONS**

### **A. Limit Of Liability**

Our total liability under Coverage E for all damages resulting from any one "occurrence" will not be more than the Coverage E limit of liability shown in the Declarations. This limit is the same regardless of the number of "insureds", claims made or persons injured. All "bodily injury" and "property damage" resulting from any one accident or from continuous or repeated exposure to substantially the same general harmful conditions shall be considered to be the result of one "occurrence".

Our total liability under Coverage F for all medical expense payable for "bodily injury" to one person as the result of one accident will not be more than the Coverage F limit of liability shown in the Declarations.

### **B. Severability Of Insurance**

This insurance applies separately to each "insured". This condition will not increase our limit of liability for any one "occurrence".

### **C. Duties After "Occurrence"**

In case of an "occurrence", you or another "insured" will perform the following duties that apply. We have no duty to provide coverage under this policy if your failure to comply with the following duties is prejudicial to us. You will help us by seeing that these duties are performed:

1. Give written notice to us or our agent as soon as is practical, which sets forth:
  - a. The identity of the policy and the "named insured" shown in the Declarations;
  - b. Reasonably available information on the time, place and circumstances of the "occurrence"; and
  - c. Names and addresses of any claimants and witnesses;
2. Cooperate with us in the investigation, settlement or defense of any claim or suit;
3. Promptly forward to us every notice, demand, summons or other process relating to the "occurrence";
4. At our request, help us:
  - a. To make settlement;
  - b. To enforce any right of contribution or indemnity against any person or organization who may be liable to an "insured";

- c. With the conduct of suits and attend hearings and trials; and
- d. To secure and give evidence and obtain the attendance of witnesses;
- 5. With respect to **C. Damage To Property Of Others** under Section II – Additional Coverages, submit to us within 60 days after the loss, a sworn statement of loss and show the damaged property, if in an "insured's" control;
- 6. No "insured" shall, except at such "insured's" own cost, voluntarily make payment, assume obligation or incur expense other than for first aid to others at the time of the "bodily injury".

**D. Duties Of An Injured Person – Coverage F – Medical Payments To Others**

- 1. The injured person or someone acting for the injured person will:
  - a. Give us written proof of claim, under oath if required, as soon as is practical; and
  - b. Authorize us to obtain copies of medical reports and records.
- 2. The injured person will submit to a physical exam by a doctor of our choice when and as often as we reasonably require.

**E. Payment Of Claim – Coverage F – Medical Payments To Others**

Payment under this coverage is not an admission of liability by an "insured" or us.

**F. Suit Against Us**

- 1. No action can be brought against us unless there has been full compliance with all of the terms under this Section II.
- 2. No one will have the right to join us as a party to any action against an "insured".
- 3. Also, no action with respect to Coverage E can be brought against us until the obligation of such "insured" has been determined by final judgment or agreement signed by us.

**G. Bankruptcy Of An "Insured"**

Bankruptcy or insolvency of an "insured" will not relieve us of our obligations under this policy.

**H. Other Insurance**

This insurance is excess over other valid and collectible insurance except insurance written specifically to cover as excess over the limits of liability that apply in this policy.

**I. Policy Period**

This policy applies only to "bodily injury" or "property damage" which occurs during the policy period.

**J. Concealment Or Fraud**

We do not provide coverage to an "insured" who, whether before or after a loss, has:

- 1. Intentionally concealed or misrepresented any material fact or circumstance;
  - 2. Engaged in fraudulent conduct; or
  - 3. Made false statements;
- relating to this insurance.

**SECTIONS I AND II – CONDITIONS**

**A. Liberalization Clause**

If we make a change which broadens coverage under this edition of our policy without additional premium charge, that change will automatically apply to your insurance as of the date we implement the change in your state, provided that this implementation date falls within 60 days prior to or during the policy period stated in the Declarations.

This Liberalization Clause does not apply to changes implemented with a general program revision that includes both broadenings and restrictions in coverage, whether that general program revision is implemented through introduction of:

- 1. A subsequent edition of this policy; or
- 2. An amendatory endorsement.

**B. Waiver Or Change Of Policy Provisions**

A waiver or change of a provision of this policy must be in writing by us to be valid. Our request for an appraisal or examination will not waive any of our rights.

**C. Cancellation**

- 1. You may cancel this policy at any time by returning it to us or by letting us know in writing of the date cancellation is to take effect.
- 2. We may cancel this policy only for the reasons stated below by letting you know in writing of the date cancellation takes effect. This cancellation notice may be delivered to you, or mailed to you at your mailing address shown in the Declarations. Proof of mailing will be sufficient proof of notice.
  - a. When you have not paid the premium, we may cancel at any time by letting you know at least 10 days before the date cancellation takes effect.
  - b. When this policy has been in effect for less than 60 days and is not a renewal with us, we may cancel for any reason by letting you know at least 10 days before the date cancellation takes effect.

c. When this policy has been in effect for 60 days or more, or at any time if it is a renewal with us, we may cancel:

(1) If there has been a material misrepresentation of fact which if known to us would have caused us not to issue the policy; or

(2) If the risk has changed substantially since the policy was issued.

This can be done by letting you know at least 30 days before the date cancellation takes effect.

d. When this policy is written for a period of more than one year, we may cancel for any reason at anniversary by letting you know at least 30 days before the date cancellation takes effect.

3. When this policy is canceled, the premium for the period from the date of cancellation to the expiration date will be refunded pro rata.

4. If the return premium is not refunded with the notice of cancellation or when this policy is returned to us, we will refund it within a reasonable time after the date cancellation takes effect.

#### **D. Nonrenewal**

We may elect not to renew this policy. We may do so by delivering to you, or mailing to you at your mailing address shown in the Declarations, written notice at least 30 days before the expiration date of this policy. Proof of mailing will be sufficient proof of notice.

#### **E. Assignment**

Assignment of this policy will not be valid unless we give our written consent.

#### **F. Subrogation**

An "insured" may waive in writing before a loss all rights of recovery against any person. If not waived, we may require an assignment of rights of recovery for a loss to the extent that payment is made by us.

If an assignment is sought, an "insured" must sign and deliver all related papers and cooperate with us.

Subrogation does not apply to Coverage F or Paragraph C. Damage To Property Of Others under Section II – Additional Coverages.

#### **G. Death**

If any person named in the Declarations or the spouse, if a resident of the same household, dies, the following apply:

1. We insure the legal representative of the deceased but only with respect to the premises and property of the deceased covered under the policy at the time of death; and

2. "Insured" includes:

a. An "insured" who is a member of your household at the time of your death, but only while a resident of the "residence premises"; and

b. With respect to your property, the person having proper temporary custody of the property until appointment and qualification of a legal representative.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## SPECIAL PROVISIONS – MASSACHUSETTS

### SECTION I – PERILS INSURED AGAINST

If this endorsement is attached to Form HO 00 03 or HO 00 05, the following replaces Paragraph A.2.c.(6)(g) in HO 00 03 and A.2.e.(7) in HO 00 05:

- (g) Birds, rodents, insects, or vermin.

Vermin means animals that tend to access, or enter into or under, structures for foraging or shelter, and, as a result, cause loss. Such animals include, but are not limited to, armadillos, bats, beavers, coyotes, lizards, opossums, porcupines, raccoons, skunks, snails, snakes, slugs, or squirrels;

or

That same provision is deleted and replaced in the following endorsements if attached to the policy:

| If one or more of the following is attached: | The above provision replaces: |
|--|-------------------------------|
| HO 05 24                                     | Paragraph 2.j.(7)             |
| HO 17 31                                     | Paragraph 3.j.(7)             |
| HO 17 32                                     | Paragraph 2.c.(6)(g)          |

### SECTION I – CONDITIONS

#### B. Duties After Loss

Paragraphs 4., 6., 7. and 8. are deleted and replaced by the following:

4. Protect the property from further damage; make reasonable and necessary repairs required to protect the property; keep an accurate record of repair expenditures. Some or all of these expenses may be reimbursable under this policy;
6. Prepare an inventory of damaged personal property; show in detail, the quantity, description, actual cash value and amount of loss. Attach to the inventory when available all pertinent bills and documents that substantiate the figures in the inventory;
7. We may reasonably require you to:
  - a. Exhibit the damaged property;
  - b. Provide us with records and documents pertinent to the loss and permit us to make copies; and
  - c. Submit to an examination under oath, while not in the presence of another "insured", and sign the same;

8. Submit to us, within 60 days after we request, your signed, sworn proof of loss which sets forth, to the best of your knowledge and belief:
  - a. The time and cause of loss;
  - b. The interest of all "insureds" and all others in the property involved and all encumbrances on the property;
  - c. Other insurance which may cover the loss;
  - d. Changes in title or occupancy of the property during the term of the policy;
  - e. Detail estimates for repair of the damage;
  - f. An inventory of damaged personal property described in 6. above;
  - g. Receipts for additional living expenses incurred and records supporting the fair rental value loss; and
  - h. Evidence or affidavit supporting a claim under the Credit Card, Electronic Fund Transfer Card or Access Device, Forgery And Counterfeit Money Coverage, stating the amount and cause of loss.

#### C. Loss Settlement

(Not applicable to HO 00 04 or HO 00 06.)

Paragraph C.2.a. is deleted and replaced by the following:

- a. If, at the time of loss, the amount of insurance in this policy on the damaged building is 80% or more of the full replacement cost of the building immediately prior to the loss, we will pay the cost of repair or replacement, after application of deductible and without deduction for depreciation. We will pay replacement cost if the damaged building is repaired or replaced by you on the "residence premises" or some other location within the Commonwealth of Massachusetts within a reasonable time but not more than two years from the date of loss.  
We will pay the least of the following amounts:
  - (1) The limit of liability under this policy that applies to the building;
  - (2) The replacement cost of that part of the building damaged with material of like kind and quality and for like use; or

- (3) The necessary amount actually spent to repair or replace the damaged building.

If the building is rebuilt at a new premises, the cost described in (2) above is limited to the cost which would have been incurred if the building had been built at the original premises.

**E. Appraisal** is deleted and replaced by the following:

**E. Appraisal**

If you and we fail to agree on the amount of loss, we shall, upon receipt of your written request to do so, refer this matter to a three member board of referees. They are selected and must act according to the procedures set by the law. Their decision will be binding. This board does not make decisions about matters of coverage or fault.

**G. Suit Against Us** is deleted and replaced by the following:

**G. Suit Against Us**

No action can be brought against us unless there has been full compliance with all the terms under Section I of this policy and the action is started within two years after the date loss occurs. However, if a court prevents the start or continuance of the action, but at a later date allows the action to resume, it must be resumed within one year of the court order. If a disagreement about the amount of loss has been referred to a board of referees within two years of the date of loss, any action against us must be started within 90 days after the board's decision.

**H. Our Option** is deleted and replaced by the following:

**H. Our Option**

If we give you written notice within 15 days after we receive your Proof of Loss, we may repair or replace any part of the property damaged with material or property of like kind or quality.

**I. Loss Payment** is deleted and replaced by the following:

**I. Loss Payment**

We will adjust all losses with you. We will pay you unless some other person is named in the policy or is legally entitled to receive payment. Loss will be payable within 30 days after we receive your Proof of Loss.

All applicable sales taxes are considered a part of any loss under this policy.

We shall pay you interest at the rate of one percent over the prime interest rate on the agreed figure commencing 30 days after the date of an executed Proof of Loss for such figure is received by us. This interest is to continue as long as the claim remains unpaid.

**K. Mortgage Clause**

(Not applicable to HO 00 04.)

Paragraph 3. is deleted and replaced by the following:

3. If we decide to cancel or not to renew this policy, the mortgagee shown on the Declarations will be notified:

- At least 20 days before the date cancellation takes effect; or
- At least 10 days before the date nonrenewal takes effect.

A United States Postal Service certificate of mailing showing the name and address of the mortgagee will be sufficient proof of notice.

The following Conditions are added:

**S. City Or Town Liens**

We are required by Massachusetts law that we must notify the local inspector of buildings or Board of Health at least 10 days before we make a payment of \$1,000 or more for loss to a building or structure.

We must also give notice if there is damage which makes a building a health or safety hazard or dangerous or unsafe for occupancy regardless of the amount of our payment.

If prior to payment we receive official notice of a pending or existing lien against your premises, we must delay payment until the matter is settled. If we are required to pay all or part of the amount of the lien, we will not be obliged to pay that amount to you.

**T. Vacancy**

Unless otherwise provided in writing, we shall not be liable for loss caused by fire or lightning occurring while a described building is vacant, whether intended for occupancy by owner or tenant, beyond a period of 60 consecutive days for residential purposes of three units or less and 30 consecutive days for other residential purposes.

(These are Conditions R. and S. in Form HO 00 04.)

## SECTION II – CONDITIONS

### C. Duties After "Occurrence"

Paragraph 4.a. is deleted.

### D. Duties Of An Injured Person – Coverage F – Medical Payments To Others is deleted and replaced by the following:

#### D. Duties Of An Injured Person – Coverage F – Medical Payments To Others

1. The injured person or someone acting for the injured person will:
  - a. Give us written proof of claim, under oath if required, as soon as is practicable; and
  - b. Execute authorization to allow us to obtain copies of pertinent medical reports and records.
2. The injured person will submit to a physical exam by a doctor of our choice when and as often as we reasonably require. We will pay for the cost of the examination.

## SECTIONS I AND II – CONDITIONS

### C. Cancellation

Paragraphs 2. and 4. are deleted and replaced by the following:

2. We may cancel this policy only for the reasons stated below by letting you know in writing of the date cancellation takes effect and the reason for cancellation. This cancellation notice may be delivered to you or mailed, by first class mail, to the mailing address shown in the Declarations or to your last address known to us. A United States Postal Service certificate of mailing showing your name and that address will be sufficient proof of notice.
  - a. When you have not paid the premium, whether payable to us or to our agent or under any finance or credit plan, we may cancel at any time by letting you know at least 10 days before the date cancellation takes effect.
  - b. When this policy has been in effect for less than 60 days we may cancel for any reason, other than nonpayment of premium, by letting you know at least 5 days before the date cancellation takes effect.
  - c. When this policy has been in effect 60 days or more, or after 60 days from any anniversary date, we may cancel for one or more of the following by letting you know 5 days before the date cancellation takes effect:
    - (1) Conviction of an act which increases the chances of loss under this policy;

- (2) Discovery of fraud or material misrepresentation by the "insured" in obtaining this policy;
- (3) Discovery of willful or reckless acts or omissions by the "insured" increasing the hazard insured against;
- (4) Physical changes in the property insured, which result in the property becoming uninsurable; or
- (5) A determination by the commissioner that continuation of the policy will violate or place the insurer in violation of the law.

4. If the return premium is not refunded with the notice of cancellation or when this policy is returned to us, we will refund it when ascertained.

Where the stated reason is nonpayment of premium, you may continue the coverage and avoid the effect of the cancellation by payment at any time prior to the effective date of cancellation.

- D. **Nonrenewal** is deleted and replaced by the following:

### D. Nonrenewal

Ordinarily we will renew this policy automatically and send you the renewal notice. Our notice will explain what you should do if you do not want to continue the policy.

We may elect not to renew this policy. We may do so by delivering to you or mailing to you at your last mailing address shown in the Declarations, written notice at least 45 days before the expiration date of this policy.

If Scheduled Personal Property Endorsement HO 04 61 is made part of this policy, Condition F.3. **Pair, Set Or Parts Other Than Fine Arts** of Endorsement HO 04 61 is deleted and replaced by the following:

### 3. Pair, Set Or Parts Of Property Other Than Fine Arts

In case of a loss we may elect to:

- a. Repair or replace any part to restore the pair or set to its value before the loss; or
- b. Pay the difference between actual cash value of the property before and after the loss.

All other provisions of this policy apply.

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

## **PREMISES ALARM OR FIRE PROTECTION SYSTEM**

We acknowledge the installation of an alarm system and/or automatic sprinkler system approved by us on the "residence premises". You agree to maintain this system or systems, for which we have granted a credit, in working order and to let us know promptly of any change, including removal, made to the system(s).

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

This endorsement, effective 12:01 A.M. 11/15/2012  
forms a part of Policy No. 28392450  
issued to Hernandez, Aaron  
by Lexington Insurance Company

**COVERAGE TERRITORY ENDORSEMENT**

*This endorsement modifies insurance provided under the following:*

Payment of loss under this policy shall only be made in full compliance with all United States of America economic or trade sanction laws or regulations, including, but not limited to, sanctions, laws and regulations administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC").



## WHAT TO DO IF YOU SUFFER A LOSS TO YOUR HOME AND PROPERTY

Below are steps you should follow whenever you are confronted with a loss to your home and/or personal property.

### NON-CATASTROPHIC EVENT

- **Promptly report your loss to your insurance agent.**  
Your agent has the most updated knowledge of your insurance coverage and can help you throughout the claim process.
- **Protect your property from further damage or loss by hiring a qualified professional to assist in making temporary repairs.**
- **Keep an accurate record of repair costs.**  
Be ready to provide the claim professional with copies of paid invoice, check numbers or cash receipts.
- **In cases of theft or vandalism immediately notify your local police.**
- **Complete a room by room inventory of both the damage to your dwelling and contents.**  
When contents are involved be sure your inventory includes detailed description of the item, ages, places of purchases as well as today's cost to replace. You will be requested by the claims professional to provide all supporting documentation you have regarding these items to include credit card or purchase receipts as well as copies of cancelled checks.

### CATASTROPHIC EVENT

- **Promptly report your loss to your insurance agent.**  
Often in times of catastrophes utilities in your area are affected and you will not be able to contact your local agent or broker who is being affected by the same conditions. **In these cases you may call toll free claim reporting hotline *Lex Call One* to report Catastrophic claim at 1-866-603-5519, Fax #866-480-5396. To report Catastrophic claim by email send email to LexhomeownersCAT@chartisinsurance.com.**
- **To the best of your ability protect your property from further damage or loss by making temporary repairs.**  
In times of widespread damage, such as in the case of hurricanes, it may not be possible for you to retain a contractor to assist with these repairs for several days after the event. Do what you can until you can contact and retain a professional.
- **Keep copies of all invoices and expense incurred. Make sure they are detailed.**
- **Complete a room by room inventory of all damage.**  
When contents are involved make sure your inventory includes a detailed description of items, ages of each item, place of purchase and cost to replace.

*For information on safety tips, contact the Institute for Business & Home Safety at [www.disastersafety.org](http://www.disastersafety.org). For up to date tracking of approaching hurricanes access the National Oceanographic & Atmospheric Administration at [www.noaa.gov](http://www.noaa.gov)*

POLICY NUMBER: 28392450

HOMEOWNERS  
HO 04 35 10 00

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## LOSS ASSESSMENT COVERAGE

### SCHEDULE\*

A. "Residence Premises" – Additional Amount Of Insurance: \$1,000

B. Additional Locations  
Location Of Unit And Limit Of Liability

\*Entries may be left blank if shown elsewhere in this policy for this coverage.

#### 1. Additional Insurance – Residence Premises

We will pay, up to the additional amount of insurance shown in A. in the Schedule above, for one or more assessments arising out of a single loss covered under:

- a. Section I Additional Coverage E.7. Loss Assessment (This is Additional Coverage C.7. in Form HO 00 04 and D.7. in Form HO 00 06.);
- b. Section II – Additional Coverage D. Loss Assessment; or
- c. Both Section I and Section II.

#### 2. Additional Locations

We will pay, up to the limit of liability shown in B. in the Schedule, your share of covered loss assessments as described in Section I Additional Coverage E.7. and Section II – Additional Coverage D. of the policy, arising out of the premises listed above. This is the most we will pay for one or more assessments arising out of a single loss covered under:

- a. Either Section I Additional Coverage E.7. Loss Assessment or Section II – Additional Coverage D. Loss Assessment; or
- b. Both Section I and Section II.

#### 3. Special Limit

We will not pay more than \$1,000 of your assessment per unit that results from a deductible in the policy of insurance purchased by a corporation or association of property owners.

#### 4. Section II – Exclusion

Section II – Exclusion F.1.a. does not apply to this coverage.

All other provisions of this policy apply.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## PERSONAL PROPERTY REPLACEMENT COST LOSS SETTLEMENT

### A. Eligible Property

1. Covered losses to the following property are settled at replacement cost at the time of the loss:
  - a. Coverage C; and
  - b. If covered in this policy:
    - (1) Awnings, outdoor antennas and outdoor equipment; and
    - (2) Carpeting and household appliances; whether or not attached to buildings.
2. This method of loss settlement will also apply to the following articles or classes of property if they are separately described and specifically insured in this policy and not subject to agreed value loss settlement:
  - a. Jewelry;
  - b. Furs and garments:
    - (1) Trimmed with fur; or
    - (2) Consisting principally of fur;
  - c. Cameras, projection machines, films and related articles of equipment;
  - d. Musical equipment and related articles of equipment;
  - e. Silverware, silver-plated ware, goldware, gold-plated ware and pewterware, but excluding:
    - (1) Pens or pencils;
    - (2) Flasks;
    - (2) Smoking implements; or
    - (3) Jewelry; and
  - f. Golfer's equipment meaning golf clubs, golf clothing and golf equipment.

Personal Property Replacement Cost loss settlement will not apply to other classes of property separately described and specifically insured.

### B. Ineligible Property

Property listed below is not eligible for replacement cost loss settlement. Any loss will be settled at actual cash value at the time of loss but not more than the amount required to repair or replace.

1. Antiques, fine arts, paintings and similar articles of rarity or antiquity which cannot be replaced.
2. Memorabilia, souvenirs, collectors items and similar articles whose age or history contribute to their value.
3. Articles not maintained in good or workable condition.
4. Articles that are outdated or obsolete and are stored or not being used.

### C. Replacement Cost Loss Settlement Condition

The following loss settlement condition applies to all property described in A. above:

1. We will pay no more than the least of the following amounts:
  - a. Replacement cost at the time of loss without deduction for depreciation;
  - b. The full cost of repair at the time of loss;
  - c. The limit of liability that applies to Coverage C, if applicable;
  - d. Any applicable special limits of liability stated in this policy; or
  - e. For loss to any item described in A.2.a. - f. above, the limit of liability that applies to the item.
2. If the cost to repair or replace the property described in A. above is more than \$500, we will pay no more than the actual cash value for the loss until the actual repair or replacement is complete.
3. You may make a claim for loss on an actual cash value basis and then make claim for any additional liability in accordance with this endorsement provided you notify us of your intent to do so within 180 days after the date of loss.

All other provisions of this policy apply.

THIS ENDORSEMENT DOES NOT CONSTITUTE A REDUCTION OF COVERAGE.

**NO SECTION II – LIABILITY COVERAGES FOR  
HOME DAY CARE BUSINESS  
LIMITED SECTION I – PROPERTY COVERAGES FOR  
HOME DAY CARE BUSINESS**

A. "Business", as defined in the policy, means:

1. A trade, profession or occupation engaged in on a full-time, part-time, or occasional basis; or
2. Any other activity engaged in for money or other compensation, except the following:

a. One or more activities:

(1) Not described in b. through d. below; and

(2) For which no "insured" receives more than \$2000 in total compensation for the 12 months before the beginning of the policy period;

b. Volunteer activities for which no money is received other than payment for expenses incurred to perform the activity;

c. Providing home day care services for which no compensation is received, other than the mutual exchange of such services; or

d. The rendering of home day care services to a relative of an "insured".

B. If an "insured" regularly provides home day care services to a person or persons other than "insureds" as their trade, profession or occupation, that service is a "business".

C. If home day care service is not a given "insured's" trade, profession or occupation but is an activity:

1. That an "insured" engages in for money or other compensation; and

2. From which an "insured" receives more than \$2,000 in total/combined compensation from it and any other activity for the 12 months before the beginning of the policy period;

the home day care service and other activity will be considered a "business".

D. With respect to C. above, home day care service is only an example of an activity engaged in for money that may be a "business". Any single activity or combination of activities:

1. Described in A.2. above, and

2. Engaged in for money by a single "insured"; may be considered a "business" if the \$2000 threshold is exceeded.

E. With respect to A. through D. above, coverage does not apply to or is limited with respect to home day care service which is a "business". For example, this policy:

1. Does not provide:

a. Section II coverages. This is because a "business" of an "insured" is excluded under E.2. of Section II – Exclusions;

b. Coverage, under Section I, for other structures from which any "business" is conducted; and

2. Limits Section I coverage, under Coverage C – Special Limits of Liability, for "business" property:

a. On the "residence premises" for the home day care "business" to \$2,500. This is because Category h. (e. in Form HO 00 08) imposes that limit on "business" property on the "residence premises";

b. Away from the "residence premises" for the home day care "business" to \$500. This is because Category i. (f. in Form HO 00 08) imposes that limit on "business" property away from the "residence premises". Category i. does not apply to property described in Categories j. and k. (g. and h. respectively in Form HO 00 08).

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# PROPERTY REMEDIATION FOR ESCAPED LIQUID FUEL AND LIMITED LEAD AND ESCAPED LIQUID FUEL LIABILITY COVERAGES

ALL FORMS EXCEPT FORMS HO 00 04 AND HO 00 06

## SCHEDULE\*

|   |   |           |
|---|---|-----------|
| The coverage provided by this endorsement and the applicable Limits of Liability shown in this Schedule apply. These limits of liability apply to the total of all loss or expense, including loss assessments, payable under this endorsement, regardless of the number of locations insured under this endorsement and listed in this Schedule or the number of assessments charged against the "insured" during the policy period. |   |           |
| 1.  | Aggregate Limited Lead And Escaped Liquid Fuel Liability Limit Of Liability   | \$ 50,000 |
| 2.  | <b>Property Remediation For Escaped Liquid Fuel Limit Of Liability</b><br>This Property Remediation For Escaped Liquid Fuel Limit Of Liability applies to the "residence premises" as defined in Paragraphs a., b. or c. of Definition 11. "Residence premises" in this endorsement and any of the following locations as defined in Paragraph d. of Definition 11. "Residence premises": | \$ 10,000 |
| * Entries may be left blank if shown elsewhere in this policy for this coverage.  |   |           |

### A. Definitions

The definitions applying to the policy form, other than Definition 11. "Residence premises", apply to this endorsement. Definition 11. "Residence premises" is deleted and replaced by the following. Definitions 12. through 14. are added only with respect to the coverage provided by this endorsement.

#### 11. "Residence premises" means:

- The one family dwelling where you reside;
- The two, three or four family dwelling where you reside in at least one of the family units or;
- That part of any other building where you reside;

and which is shown as the "residence premises" in the Declarations; and

- Any location shown in the Schedule of this endorsement.

"Residence premises" also includes other structures and grounds at the locations described in a. through d. above.

- "Covered real property". The following applies only to the Section I – Property Coverages – Property Remediation For Escaped Liquid Fuel:

#### a. "Covered real property" means:

- (1) Property owned by an "insured" and covered under Coverage A of this policy;

- (2) Any other one, two, three or four family dwelling building owned by an "insured" and shown in the Schedule under Paragraph 2.;
  - (3) Materials and supplies located on or next to the "residence premises", used to construct, alter or repair the dwelling or other structures on the "residence premises";
  - (4) Property owned by an "insured" and covered under Coverage B of this policy, provided such property is located on the "residence premises"; and
  - (5) Land, other than farm land:
    - (a) Which is within the "residence premises";
    - (b) Which is owned by an "insured"; and
    - (c) On which a building or structures described in 12.a.(1) through (4) is located.
  - b. "Covered real property" does not include:
    - (1) Water;
    - (2) Other structures that are part of the "fuel system"; or
    - (3) Trees, shrubs, plants or lawns, except to the extent provided in B.3.c. of this endorsement.
13. "Covered personal property". The following applies only to the Section I – Property Coverages – Property Remediation For Escaped Liquid Fuel:
- a. "Covered personal property" means personal property:
    - (1) Owned or used by an "insured" and covered under Coverage C of this policy; and
    - (2) Located on the "residence premises".
  - b. Loss to such property shall be subject to those Coverage C Special Limits of Liability that apply.
14. "Fuel System" means:
- a. One or more containers, tanks or vessels which have a total combined storage capacity of 100 or more U.S. gallons of liquid fuel; and:
    - (1) Are, or were, used to hold liquid fuel that is intended to be used solely for one or more of the following:
      - (a) To heat or cool a building;
      - (b) To heat water;
      - (c) To cook food; or
      - (d) To power "motor vehicles" or watercraft owned by an "insured" and not used primarily for "business"; and
    - (2) Are, or were, located on:
      - (a) "Covered real property"; or
      - (b) An "insured location";
  - b. Any pumping apparatus, which includes the motor, gauge, nozzle, hose or pipes that are, or were, connected to one or more containers, tanks or vessels described in 14.a.;
  - c. Filler pipes and flues connected to one or more containers, tanks or vessels described in 14.a.;
  - d. A boiler, furnace or a water heater, the liquid fuel for which is stored in a container, tank or vessel described in 14.a., and which is located on:
    - (1) "Covered real property"; or
    - (2) An "insured location";
  - e. Fittings and pipes connecting the boiler, furnace or water heater to one or more containers, tanks or vessels described in 14.a.; or
  - f. A structure that is specifically designed and built to hold the liquid fuel that escapes from one or more containers, tanks or vessels described in 14.a.
- A "fuel system" does not include any fuel tanks that are permanently affixed to a "motor vehicle" or watercraft listed in a.(1)(d) above.
- B. Section I – Property Coverages**
- The following coverage is added:
- PROPERTY REMEDIATION FOR ESCAPED LIQUID FUEL**
1. With respect to the total of all escapes of liquid fuel from a "fuel system" which an "insured" first discovers or learns of during the policy period, we will pay up to the limit of liability shown in the Schedule for loss or expense described in 3. below.
  2. The limit shown in the Schedule for this coverage is the most we will pay for the total of all loss or expense payable under 3. below regardless of the:
    - a. Number of locations insured under this endorsement;
    - b. Number of escapes of liquid fuel from a "fuel system" an "insured" first discovers or learns of during the policy period; or
    - c. Number of claims made.

### 3. Loss Or Expense Covered

This coverage pays for:

#### a. Loss to:

- (1) "Covered real property"; or
  - (2) "Covered personal property";
- caused directly or indirectly by the escape of such fuel from a "fuel system";

#### b. The expense you incur to:

- (1) Take temporary measures to stop the further escape of liquid fuel from any part of the "fuel system";
- (2) Retard or stop the spread of escaped liquid fuel;

#### (3) Clean up, remove or treat loss to:

- (a) "Covered real property"; or
- (b) "Covered personal property"; or

#### (4) Test, monitor or assess the effects of the escape of liquid fuel in, on or away from "covered real property":

- (a) As required by law; or
- (b) In response to a request, demand or order by a governmental authority or court of law.

We will pay for such expense only if it results from the same escape that is payable under a. or b.(1), (2) and (3) above;

#### c. Loss to trees, shrubs, plants or lawns, located on the "residence premises", but only if there is loss or expense caused by the same escape that is payable under a. or b. above. However, we will not pay more than an amount equal to 5% of the limit of liability shown in the Schedule for the total of all loss to trees, shrubs, plants or lawns. No more than \$500 of this amount will be payable for any lawn or any one tree, shrub, or plant. We do not cover property grown for "business".

Under Form HO 00 08, no more than \$250 of the amount of insurance available under this coverage will be payable for lawns or any one tree, shrub or plant; and

#### d. Additional Living Expense

- (1) Additional Living Expense means any necessary increase in living expenses you incur, so that your household can maintain its normal standard of living, if the escape of liquid fuel:

- (a) Results in loss or expense payable under a. or b. above; and

- (b) Makes that part of the "residence premises" where you reside not fit to live in.

#### (2) Payment for Additional Living Expense will be for the shortest time required:

- (a) To make that part of the "residence premises" where you reside fit to live in; or

- (b) For your household to settle elsewhere, if you permanently relocate.

This period of time applies even if it extends past the expiration date of this policy.

We do not cover loss or expense due to cancellation of a lease or agreement.

- (3) This coverage does not increase the limit of liability shown in the Schedule.

- (4) Section I – Property Coverages, D. Coverage D – Loss Of Use in the policy form does not apply to this endorsement.

### 4. Deductible

The deductible amount, equal to that which applies to the peril of Fire, applies to loss or expense covered under this additional coverage. We will pay only that part of the total of all loss or expense payable under 3. above that exceeds that deductible amount.

### 5. Loss Or Expense Not Covered

We will not pay:

- a. For any diminution or reduction in the market value of any:

- (1) "Covered real property"; or
- (2) "Covered personal property";

whether or not such property is damaged;

- b. For any damage resulting from the loss of or reduction in value of a pending sale of:

- (1) "Covered real property"; or
- (2) "Covered personal property";

- c. To replace any fuel;

- d. For any expense to:

- (1) Demolish or remove; or
- (2) Repair, replace, rebuild or restore;

any part of a "fuel system", other than those expenses provided for in 3.a. or b. above; or

- e. For any damage that results from an escape from:
    - (1) One or more containers, tanks or vessels, that are, or were, used to hold liquid fuel and are a part of a "motor vehicle" or watercraft; or
    - (2) Related lines or parts, that are, or were, connected to a "motor vehicle" or watercraft.
  6. For Form HO 00 03, under Section I – Perils Insured Against, Paragraph A.2.c.(6)(e) does not apply to this Property Remediation For Escaped Liquid Fuel Coverage.
  7. For Form HO 00 05, under Section I – Perils Insured Against, Paragraph A.2.(e)(5) does not apply to this Property Remediation For Escaped Liquid Fuel Coverage.
  8. When the Special Computer Coverage Endorsement is attached, Paragraph 2.b.(9)(e) in that endorsement, under Perils Insured Against, does not apply to this Property Remediation For Escaped Liquid Fuel Coverage.
  9. The Additional Coverages under Section I – Property Coverages and the Section I – Exclusions apply to this Property Remediation For Escaped Liquid Fuel Coverage.
  10. The Section I – Conditions apply to this Property Remediation For Escaped Liquid Fuel Coverage except as provided in C. Section I – Conditions below.
  11. This Property Remediation For Escaped Liquid Fuel Coverage does not apply to any "residence premises" at which the containers, tanks or vessels, described in A.14.a. above, have a total combined storage capacity of less than 100 U.S. gallons of liquid fuel.  
 Coverage, if any, for escape of liquid fuel from such containers, tanks or vessels is subject to those:
    - a. Exclusions;
    - b. Conditions;
    - c. Other provisions; and
    - d. Limits of Liability;
 that apply to real and personal property under the policy to which this endorsement is attached.
- C. Section I – Conditions – Property Remediation For Escaped Fuel**
- With respect to loss or expense described in B. Section I – Property Coverages above, Section I Condition F. Other Insurance And Service Agreement in the policy form, is deleted and replaced by the following:
- F. Other Insurance, Service Agreements And Government Funds**
- If loss or expense covered in B. Section I – Property Coverages above is also covered by:
1. Other insurance, we will pay only the proportion of the loss or expense that the limit of liability that applies under this endorsement bears to the total amount of insurance covering the loss or expense;
  2. A service agreement, then this Property Remediation for Escaped Liquid Fuel Coverage is excess over any amounts payable under any such agreement. Service Agreement means a "fuel system" service plan, property restoration protection plan, or similar service or warranty agreement, even if it is characterized as insurance; or
  3. A government fund, we will pay only the proportion of the loss or expense that the limit of liability that applies under this endorsement bears to the total amount payable for the loss or expense to the extent permitted by law.
- D. Section II – Liability Coverages**
- LIMITED LEAD AND ESCAPED LIQUID FUEL LIABILITY COVERAGE**
1. With respect to "bodily injury" or "property damage" described in D.2. below, the coverages provided by Section II – Liability Coverages, Coverage E – Personal Liability and Coverage F – Medical Payments To Others in the policy form, and the limits of liability stated on the Declarations page do not apply.
  2. This coverage applies if a claim is made or a suit is brought against an "insured" for damages because of:
    - a. "Bodily injury" or "property damage" caused by an "occurrence" involving the escape of fuel from a "fuel system". However, this limited coverage does not apply to an "occurrence" of fire or explosion that results from such escaped fuel. Damages resulting from such an "occurrence" of fire or explosion are subject to the Coverage E limit of liability of the policy to which this endorsement is attached;



- b. "Bodily injury" caused by an "occurrence" involving the absorption, ingestion or inhalation of lead which is in or on an "insured location"; or
- c. "Property damage" caused by an "occurrence" of lead contamination, but only if, immediately prior to the "occurrence", the lead was located at an "insured location".

NO OTHER LEAD OR ESCAPED LIQUID FUEL LIABILITY COVERAGE APPLIES UNDER THIS POLICY EXCEPT AS PROVIDED IN D.2. ABOVE AND E. BELOW.

- 3. If coverage applies as stated in D.2. above, we will:
  - a. Pay up to the Aggregate Limit of Liability stated in the Schedule for damages for which an "insured" is legally liable. Damages include prejudgment interest awarded against an "insured"; and
  - b. Provide a defense at our expense by counsel of our choice even if the suit is groundless, false or fraudulent. We may investigate and settle any claim or suit that we decide is appropriate. Our duty to settle or defend ends when the Aggregate Limit of Liability stated in the Schedule for damages resulting from "bodily injury" or "property damage" described in D.2. above has been exhausted by payment of a judgment or settlement.
- 4. With respect only to applying the provisions of this coverage as described in D.2. above, "bodily injury" or "property damage" caused in whole or in part by an "occurrence" described in D.2. above shall be deemed to have been caused solely by such an "occurrence" regardless of any other covered cause or event contributing to the "bodily injury" or "property damage".
- 5. The Section II – Additional Coverages in the policy form apply with respect to this coverage as described in D. above except as provided in E. Section II – Additional Coverages below.
- 6. The Section II – Conditions in the policy form apply with respect to this coverage as described in D. above except as provided in F. Section II – Liability Conditions below.
- 7. This coverage does not apply to an "insured location" at which the containers, tanks or vessels described in A.14.a. above have a total combined storage capacity of less than 100 U.S. gallons of liquid fuel.

Coverage, if any, for an "occurrence" involving the escape of liquid fuel from such containers, tanks or vessels is subject to those:

- a. Exclusions;
- b. Conditions;
- c. Other provisions; and
- d. Limits of Liability;

that apply to Coverages E and F in the policy to which this endorsement is attached.

#### E. Section II – Additional Coverages

With respect to coverage described in D. Section II – Liability Coverages above, Additional Coverage D. Loss Assessment in the policy form is deleted and replaced by the following:

#### D. Loss Assessment

- 1. We will pay up to the Aggregate Limit of Liability as stated in the Schedule for your share of loss assessment charged against you, as owner or tenant of the "residence premises", during the policy period by a corporation or association of property owners, when the assessment is made as a result of:
  - a. An "occurrence" involving the escape of fuel from a "fuel system";
  - b. "Bodily injury" caused by an "occurrence", on property owned by all members collectively, involving the absorption, ingestion or inhalation of lead which occurs on an "insured location" containing the "residence premises";
  - c. "Property damage" caused by an "occurrence", on property owned by all members collectively, of lead contamination, but only if the lead originates at an "insured location" containing the "residence premises"; or
  - d. Liability for an act of a director, officer or trustee in the capacity as a director, officer or trustee, provided such person:
    - (1) Is elected by the members of a corporation or association of property owners; and
    - (2) Serves without deriving any income from the exercise of duties which are solely on behalf of a corporation or association of property owners.
- 2. We do not cover assessments charged against you or a corporation or association of property owners:
  - a. As required by law; or

- b. In response to a request, demand or order by a governmental authority or court of law.
3. Regardless of the number of assessments, the Aggregate Limit of Liability stated in the Schedule is the most we will pay for loss arising out of:

- a. All accidents, including continuous or repeated exposure to the same general harmful conditions; or
- b. All covered acts of one or more directors, officers or trustees. An act involving more than one director, officer or trustee is considered to be a single act.

THE LIMIT APPLICABLE TO THIS LOSS ASSESSMENT COVERAGE DOES NOT INCREASE THE AGGREGATE LIMIT OF LIABILITY STATED IN THE SCHEDULE.

4. Section II Condition I. Policy Period in this endorsement and in the policy form to which this endorsement is attached does not apply to this coverage.

**F. Section II – Liability Conditions**

With respect to coverage described above in D. Section II – Liability Coverages:

1. Conditions D. Duties Of An Injured Person – Coverage F – Medical Payments To Others and E. Payment Of Claim – Coverage F – Medical Payments To Others in the policy form are deleted; and

2. Conditions A. Limit Of Liability, B. Severability Of Insurance and I. Policy Period in the policy form are deleted and replaced by the following:

**A. Aggregate Limit Of Liability**

Our total liability in any one policy period for all damages resulting from the total of all "bodily injury" or "property damage" during the policy period will not be more than the Limited Lead and Escaped Liquid Fuel Liability Coverage Aggregate Limit of Liability stated in the Schedule. This is the most we will pay regardless of the:

1. Number of locations insured under the policy to which this endorsement is attached;
2. Number of persons injured;
3. Number of persons whose property is damaged;
4. Number of "insureds"; or
5. Number of claims made.

The "occurrence" limit of liability does not apply to this coverage.

**B. Severability Of Insurance**

This insurance applies separately to each "insured" except with respect to the Aggregate Limit of Liability described in A. Aggregate Limit of Liability above. This condition will not increase the Limit for this coverage.

**I. Policy Period**

This endorsement applies to "bodily injury" or "property damage" described in D.2. above which occurs during the policy period.

All other provisions of the policy not specifically modified by this endorsement apply.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.  
**LEAD POISONING EXCLUSION – MASSACHUSETTS**

**DEFINITIONS**

With respect only to the provisions of this endorsement, Paragraph B.2. "Bodily injury" in the form attached to this policy is replaced by the following. Also, with respect only to the provisions of this endorsement, this definition applies to Farmers Personal Liability Endorsement HO 24 73:

2. "Bodily injury" means bodily harm, sickness or disease arising out of lead poisoning, including required care, loss of services and death that results.

**SECTION II – EXCLUSIONS**

**F. Coverage E – Personal Liability**

The following Exclusion is added:

7. "Bodily injury":

- a. Resulting from an "insured's" gross or willful negligence; or
- b. Caused by the presence or exposure of lead in or on any of the following:

- (1) A residential unit, including common areas used in connection with such unit, that is rented, or held for rental, to others, in any one to four family residential building built before 1978, provided that the building is owned by an "insured";

- (2) A residential unit, including common areas used in connection with such unit, in any condominium or cooperative residential building built before 1978, provided that such unit is owned by an "insured" and rented, or held for rental, to others;

- (3) Any other structure owned by an "insured" and rented, or held for rental, to others which is at the same location as any residential building described in b.(1) or (2) above; or

- (4) Appliances, furnishings and fixtures, other than plumbing fixtures, owned by an "insured" and rented, or held for rental, to others and contained in or on a residential building or other structure described in b.(1), (2) or (3) above.

(This is Exclusion 10. in Endorsement HO 24 73)

Exclusion 7.b. above does not apply to:

1. "Bodily injury" which occurs on or after the date a lead inspector, authorized to do so under the Massachusetts Lead Law, issues:
  - a. A Letter of Interim Control or its equivalent. However, this exception to Exclusion 7.b. applies only to such covered unit(s), or to such other covered property, to which the letter applies and only for the period of time such letter is in effect; or
  - b. A Letter of Compliance or its equivalent. However, this exception to Exclusion 7.b. applies only to such covered unit(s), or to such other covered property, to which the letter applies; or
2. "Bodily injury" which occurs within 14 days after an "insured", or a managing agent for an "insured", is notified by an authorized lead inspector of the need to bring any of the property, described in 7.b. above, into compliance with the provisions of the Letter of Interim Control;
3. "Bodily injury" which occurs within any extension to the 14 day period described in 2. above, which is granted by the lead poisoning control director, local code enforcement agency or board of health, or by judicial order, except "bodily injury" for which an "insured" is strictly liable under the Massachusetts Lead Law; or
4. "Bodily injury" which occurs because of exposure to lead which exposure occurs during a period ending 90 days from the date an "insured" took title to the real property described in 7.b. above if such "bodily injury" is caused by the presence or exposure of lead in or on that real property. However, this exception to Exclusion 7.b. applies only if an "insured", within 90 days from taking title, complies with the requirements of the Massachusetts Lead Law that apply to new owners.

You agree to let us or our agent know, as soon as practicable, when you receive a Letter of Interim Control or a Letter of Compliance, or the equivalent, and to provide us with a copy of such letter, upon our request.

All other provisions of this policy apply.

**LEXINGTON INSURANCE COMPANY  
STANDARD POLICY CONDITIONS**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

**SERVICE OF SUIT CLAUSE**

In the event of our failure to pay any amount claimed to be due hereunder, we, at your request, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this condition constitutes or should be understood to constitute a waiver of our rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon Counsel, Legal Department, Lexington Insurance Company, 100 Summer Street, Boston, Massachusetts, 02110 or his or her representative, and that in any suit instituted against us upon this policy, we will abide by the final decision of such court or of any appellate court in the event of an appeal.

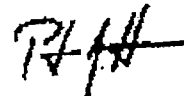
Further, pursuant to any statute of any state, territory, or district of the United States which makes provisions therefor, we hereby designate the Superintendent, Commissioner or Director of Insurance, or other officer specified for that purpose in the statute, or his or her successor or successors in office, as our true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by you or on your behalf or any beneficiary hereunder arising out of this policy of insurance, and hereby designate the above named Counsel or President as the person to whom said officer is authorized to mail such process or a true copy thereof.

**AUTHORIZATION CLAUSE**

IN WITNESS WHEREOF, we have caused this policy to be executed and attested, but this policy shall not be valid unless signed on the Declaration page by our duly authorized representative.



SECRETARY



PRESIDENT



## IMPORTANT FLOOD INSURANCE NOTICE

Your homeowners or dwelling policy does NOT provide coverage for loss caused by flood or mudslide, which is defined, in part, by the National Flood Insurance Program as:

A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters or from the unusual and rapid accumulation or runoff of surface waters from any source.

If you are required by your mortgage lender to have flood insurance on your property, or if you feel that your property is susceptible to flood damage, insurance covering damage from flood is available on most buildings and contents in participating communities through the National Flood Insurance Program.

Information about flood insurance and whether your community participates in the program can be obtained from your insurance company, from your insurance agent/broker, or directly from the National Flood Insurance Program by calling 1-800-638-6620 or via their website at <http://www.floodsmart.gov>.

If you purchase the maximum limits available through the National Flood Insurance Program, and require additional limits, contact your agent/broker for information regarding the Lexington Insurance Company's Excess Flood Program. Contents coverage may be available with the flood policy for an additional premium.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## MECHANICAL BREAKDOWN COVERAGE

### DEFINITIONS

The following definitions are added:

1. "Accident" means a fortuitous event that causes direct physical damage to "covered equipment." The event must be a mechanical breakdown, including rupture or bursting caused by centrifugal force.
2. "Computer equipment" means covered property that is electronic computer or other data processing equipment, including "media" and peripherals used in conjunction with such equipment.
3. "Covered equipment"
  - a. "Covered equipment" means covered property:
    - (1) that generates, transmits or utilizes energy, including electronic communications and data processing equipment; or
    - (2) which, during normal usage, operates under vacuum or pressure, other than the weight of its contents.
  - b. None of the following is "covered equipment":
    - (1) structure, foundation, cabinet, compartment or air supported structure or building;
    - (2) insulating or refractory material;
    - (3) sewer piping, underground vessels or piping, or piping forming a part of a sprinkler system;
    - (4) water piping other than boiler feedwater piping, boiler condensate return piping or water piping forming a part of a refrigerating or air conditioning system;
    - (5) "vehicle" or any equipment mounted on a "vehicle";
    - (6) satellite, spacecraft or any equipment mounted on a satellite or spacecraft; or
    - (7) dragline, excavation or construction equipment.
4. "Data" means information or instructions stored in digital code capable of being processed by machinery.
5. "Hazardous substance" means any substance that is hazardous to health or has been declared to be hazardous to health by a governmental agency.
6. "Media" means material on which "data" is recorded, such as magnetic tapes, hard disks, optical disks or floppy disks.
7. "One accident" means: If an initial "accident" causes other "accidents," all will be considered "one accident." All "accidents" that are the result of the same event will be considered "one accident."
8. "Vehicle" means, as respects this endorsement only, any machine or apparatus that is used for transportation or moves under its own power. "Vehicle" includes, but is not limited to, car, truck, bus, trailer, train, aircraft, watercraft, forklift, bulldozer, tractor or harvester. However, any property that is stationary, permanently installed at a covered location and that receives electrical power from an external power source will not be considered a "vehicle."

### SECTION 1 - PERILS INSURED AGAINST

1. We will pay for direct physical damage to covered property, described in Coverages A, B and C, that is the direct result of an "accident."

2. The following coverages also apply to the direct result of an "accident." These coverages do not provide additional amounts of insurance.
- a. **Expediting Expenses**  
With respect to your damaged covered property, we will pay, up to \$25,000, the reasonable extra cost to:
    - (1) make temporary repairs; and
    - (2) expedite permanent repairs or permanent replacement.
  - b. **Hazardous Substances**  
We will pay for the additional cost to repair or replace covered property because of contamination by a "hazardous substance." This includes the additional expenses to clean up or dispose of such property.  
As used in this coverage, additional costs mean those beyond what would have been payable under this Mechanical Breakdown Coverage had no "hazardous substance" been involved.  
The most we will pay for loss, damage or expense under this coverage is \$25,000.
  - c. **Computers In The Dwelling**  
We will pay for loss, damage or expense caused by or resulting from an "accident" to "computer equipment" located in the dwelling.  
The most we will pay for loss, damage or expense under this coverage \$25,000.
  - d. **Data Restoration**  
We will pay for your reasonable and necessary cost to research, replace and restore lost "data."  
The most we will pay for loss, damage or expense under this coverage is \$25,000.
3. The most we will pay for loss, damage or expense under this endorsement arising from any "one accident" is the applicable Limit of Liability in the Declarations. Coverage provided under this endorsement does not provide an additional amount of insurance.

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## SECTION 1 - EXCLUSIONS

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All exclusions in Section 1 of the policy to which this endorsement is attached apply except as modified below and to the extent that coverage is specifically provided by this additional coverage Mechanical Breakdown.

- 1. We will not pay under this endorsement for loss, damage or expense caused by or resulting from:
  - a. any defect, programming error, programming limitation, computer virus, malicious code, loss of "data," loss of access, loss of use, loss of functionality or other condition within or involving "data" or "media" of any kind. But if an "accident" results, we will pay for the resulting loss, damage or expense;
  - b. any of the following tests:
    - a hydrostatic, pneumatic or gas pressure test of any boiler or pressure vessel, or an electrical insulation breakdown test of any type of electrical equipment;
  - c. change in temperature or humidity, whether or not resulting from an "accident";
  - d. contamination by a refrigerant resulting from an "accident";
  - e. depletion, deterioration, corrosion, erosion, wear and tear, or other gradually developing conditions. But if an "accident" results, we will pay for the resulting loss, damage or expense.
- 2. We will not pay under this endorsement for any loss of income or any loss described under Coverage D.

Policy Number 28392450

3. With respect to this coverage, we will also not pay for an "accident" caused by or resulting from: fire; lightning; windstorm or hail; explosion (including steam explosion); artificially generated electrical current that disturbs electrical devices appliances or wires; smoke; aircraft or vehicles; riot or civil commotion; vandalism; sprinkler leakage; falling objects; weight of snow, ice or sleet; freezing; collapse; flood or earth movement.
4. We will not pay for loss, damage or expense caused directly or indirectly by the following, whether or not caused by or resulting from an "accident": Any mold, fungus, mildew or yeast, including any
5. spores or toxins produced by or emanating from such mold, fungus, mildew or yeast. This includes, but is not limited to, costs arising from clean up, removal, or abatement of such mold, fungus, mildew or yeast, spores or toxins.

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## SECTION 1 - CONDITIONS

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The following condition is added:

Environmental, Safety and Efficiency Improvements

If "covered equipment" requires replacement due to an "accident," we will pay your additional cost to replace with equipment that is better for the environment, safer or more efficient than the equipment being replaced.

However, we will not pay more than 125% of what the cost would have been to repair or replace with like kind and quality. This condition does not increase any of the applicable limits. This condition does not apply to any property to which actual cash value applies.



This endorsement, effective 12:01 A.M., 11/15/2012  
 Forms a part of Policy No.: 28392450  
 Issued to: Hernandez, Aaron  
 By: Lexington Insurance Company

## MAXIMUM PAYABLE AMOUNT IF OTHER INSURANCE PROVIDES COVERAGE FOR A PERIL NOT COVERED BY THIS POLICY

This endorsement modifies insurance provided by the policy:

Paragraph S. is added to **SECTION I – CONDITIONS** as follows:

### **S. Maximum Payable Amount if Other Insurance Provides Coverage for a Peril Not Covered by this Policy**

1. If a dwelling is a "total loss" and the loss or damage to the dwelling is attributable to two perils, one of which is covered under this policy and another of which is covered by another policy or policies of insurance, then:
  - a. the most we will pay under Coverage A – Dwelling is the limit of liability for Coverage A shown in the Declarations minus the amount paid or payable under such other insurance policy or policies for the dwelling, and
  - b. the most we will pay under Coverage C – Personal Property is the limit of liability for Coverage C shown in the Declarations minus the amount paid or payable under such other insurance policy or policies for the personal property (or if a special limit of liability applies to your personal property, then the most we will pay under Coverage C – Personal Property for such personal property is the special limit shown in the policy minus the amount paid or payable under such other insurance policy or policies for such personal property).

However, we might pay less than the aforementioned maximum amount(s) under subparagraphs a. or b. above if the loss or damage to the dwelling or personal property, as applicable, attributable to the covered peril is less than the applicable maximum amount(s).

2. If an other structure covered under this policy is a "total loss" and the loss or damage to such other structure is attributable to two perils, one of which is covered under this policy and another of which is covered by another policy or policies of insurance, then the most we will pay under Coverage B – Other Structures is the limit of liability for Coverage B shown in the Declarations minus the amount paid or payable under such other insurance policy or policies for the other structure. However, we might pay less than the aforementioned maximum amount if the loss or damage to the other structure attributable to the covered peril is less than the applicable maximum amount.

As used in herein, "total loss" means that:

1. the dwelling or other structure, as applicable, is completely destroyed regardless of whether any damage is done to the foundation or slab, or
2. the dwelling or other structure, as applicable, is in such condition after the loss that the standard method of rebuilding or repairing the dwelling or other structure, as applicable, is to raze the structure except for the foundation or slab or including all or part of the foundation or slab and rebuild the entire structure, whether the structure is actually rebuilt or not.

All other terms and conditions of the policy remain the same.

This endorsement, effective 12:01 A.M., 11/15/2012  
 Forms a part of Policy No.: 28392450  
 Issued to: Hernandez, Aaron  
 By: Lexington Insurance Company

**AMENDMENT TO FAIR RENTAL VALUE ENDORSEMENT**  
 (Applicable to HO 00 03, HO 00 04, and HO 00 06)

This endorsement modifies insurance provided by the policy:

- I. For HO 00 03: Subparagraph 2., Fair Rental Value of Paragraph D. Coverage D – Loss of Use (SECTION I – PROPERTY COVERAGES) is deleted in its entirety and replaced with the following:

For HO 00 04: Subparagraph 2., Fair Rental Value of Paragraph B., Coverage D – Loss of Use (SECTION I – PROPERTY COVERAGES) is deleted in its entirety and replaced with the following:

For HO 00 06: Subparagraph 2., Fair Rental Value of Paragraph C., Coverage D – Loss of Use (SECTION I – PROPERTY COVERAGES) is deleted in its entirety and replaced with the following:

**2. Fair Rental Value**

If a loss covered under Section I makes that part of the "residence premises" rented to others or "held for rental" by you not fit to live in, we cover the fair rental value of such premises less any expenses that do not continue while it is not fit to live in.

Payment will be for the shortest time required to repair or replace such premises.

- II. The following definition is added to Paragraph B. of the **DEFINITIONS** section:

"Held for rental" means that, at the time of the loss, the "residence premises" or a part of the "residence premises" is either:

1. Advertised in a newspaper, circular, flyer, internet site, or by any other publicly available means as offered for rental; or
2. Listed with a real estate broker or agent as offered for rental.

All other terms and conditions of the policy remain the same.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## SPECIFIED ADDITIONAL AMOUNT OF INSURANCE FOR COVERAGE A – DWELLING ENDORSEMENT

(FOR HO 03 ONLY)

(APPLIES ONLY WHEN LOSS TO BUILDING INSURED UNDER COVERAGE A EXCEEDS THE COVERAGE A LIMIT OF LIABILITY SHOWN IN THE DECLARATIONS)

Additional Amount of Insurance: 25 % \*

The Additional Amount of Insurance is determined by multiplying the Coverage A limit of liability shown in the Declarations by the percentage amount shown above. However, this Additional Amount of Insurance shall only apply to loss or damage to the dwelling under Coverage A and thus, shall not apply to any other coverage including, but not limited to, coverage for other structures, personal property, loss of use or any additional coverages.

\*Entry may be left blank if shown elsewhere in this policy for this coverage.

To the extent that coverage is provided, we agree to provide an additional amount of insurance in accordance with the following provisions:

**A. If you have:**

1. Allowed us to adjust the Coverage A limit of liability and the premium in accordance with:
  - a. The property evaluations we make; and
  - b. Any increases in inflation; and
2. Notified us, within 30 days after completion, of any improvements, alterations or additions to the building insured under Coverage A which increase the replacement cost of the building by 5% or more;

then we will provide an additional amount of insurance, up to the amount described in the Schedule of this endorsement.

The provisions of this endorsement will apply after a loss, provided you elect to repair or replace the damaged building.

**B. Subparagraph 2. of Paragraph C. Loss Settlement (SECTION I – CONDITIONS) is deleted in its entirety and replaced with the following:**

2. Buildings covered under Coverage A at replacement cost without deduction for depreciation, subject to the following:
  - a. If, at the time of loss, the amount of insurance in this policy on the damaged building is 80% or more of the full replacement cost of the building

immediately before the loss, we will pay the cost to repair or replace, after application of any deductible and without deduction for depreciation, but not more than the least of the following amounts:

- (1) Up to the sum of the limit of liability under this policy that applies to the building and the additional amount of insurance as shown in the Schedule of this endorsement;
- (2) The replacement cost of that part of the building damaged with material of like kind and quality and for like use; or
- (3) The necessary amount actually spent to repair or replace the damaged building.

If the building is rebuilt at a new premises, the cost described in (2) above is limited to the cost which would have been incurred if the building had been built at the original premises.

- b. If, at the time of loss, the amount of insurance in this policy on the damaged building is less than 80% of the full replacement cost of the building immediately before the loss, we will pay the greater of the following amounts, but not more than the limit of liability under this policy that applies to the building:
  - (1) The actual cash value of that part of the building damaged; or

- (2) That proportion of the cost to repair or replace, after application of any deductible and without deduction for depreciation, that part of the building damaged, which the total amount of insurance in this policy on the damaged building bears to 80% of the replacement cost of the building.
- c. To determine the amount of insurance required to equal 80% of the full replacement cost of the building immediately before the loss, do not include:
- (1) The additional amount of insurance shown in the Schedule of this endorsement;
  - (2) The value of excavations, footings, foundations, piers, or any other structures or devices that support all or part of the building, which are below the undersurface of the lowest basement floor;
  - (3) The value of those supports described in (2) above which are below the surface of the ground inside the foundation walls, if there is no basement; and
  - (4) The value of underground flues, pipes, wiring and drains.
- d. We will pay no more than the actual cash value of the damage until actual repair or replacement is complete. Once actual repair or replacement is complete, we will settle the loss as noted in 2.a. and b. above.
- However, if the cost to repair or replace the damage is both:
- (1) Less than 5% of the amount of insurance in this policy on the building; and
  - (2) Less than \$2,500;
- we will settle the loss as noted in 2.a. and b. above whether or not actual repair or replacement is complete.
- e. You may disregard the replacement cost loss settlement provisions and make claim under this policy for loss to buildings on an actual cash value basis. You may then make claim for any additional liability according to the provisions of this Condition C. Loss Settlement, provided you notify us of

your intent to do so within 180 days after the date of loss.

3. Buildings covered under Coverage B at replacement cost without deduction for depreciation, subject to the following:
- a. If, at the time of loss, the amount of insurance in this policy on the damaged building is 80% or more of the full replacement cost of the building immediately before the loss, we will pay the cost to repair or replace, after application of any deductible and without deduction for depreciation, but not more than the least of the following amounts:
    - (1) The limit of liability under this policy that applies to the building;
    - (2) The replacement cost of that part of the building damaged with material of like kind and quality and for like use; or
    - (3) The necessary amount actually spent to repair or replace the damaged building.

If the building is rebuilt at a new premises, the cost described in (2) above is limited to the cost which would have been incurred if the building had been built at the original premises.
  - b. If, at the time of loss, the amount of insurance in this policy on the damaged building is less than 80% of the full replacement cost of the building immediately before the loss, we will pay the greater of the following amounts, but not more than the limit of liability under this policy that applies to the building:
    - (1) The actual cash value of that part of the building damaged; or
    - (2) That proportion of the cost to repair or replace, after application of any deductible and without deduction for depreciation, that part of the building damaged, which the total amount of insurance in this policy on the damaged building bears to 80% of the replacement cost of the building.
  - c. To determine the amount of insurance required to equal 80% of the full replacement cost of the building imme-

diately before the loss, do not include the value of:

- (1) Excavations, footings, foundations, piers, or any other structures or devices that support all or part of the building, which are below the undersurface of the lowest basement floor;
  - (2) Those supports described in (1) above which are below the surface of the ground inside the foundation walls, if there is no basement; and
  - (3) Underground flues, pipes, wiring and drains.
- d. We will pay no more than the actual cash value of the damage until actual repair or replacement is complete. Once actual repair or replacement is complete, we will settle the loss as noted in 3.a. and b. above.
- However, if the cost to repair or replace the damage is both:
- (1) Less than 5% of the amount of insurance in this policy on the building; and
  - (2) Less than \$2,500;
- we will settle the loss as noted in 3.a. and b. above whether or not actual repair or replacement is complete.
- e. You may disregard the replacement cost loss settlement provisions and make claim under this policy for loss to buildings on an actual cash value basis. You may then make claim for any additional liability according to the provisions of this Condition C. Loss

Settlement, provided you notify us of your intent to do so within 180 days after the date of loss.

### C. EXCLUSION

If you have purchased coverage for earthquake, then notwithstanding this endorsement, the Additional Amount of Insurance provided by this endorsement does not apply if the loss or damage under Coverage A is caused directly or indirectly by "earth movement". As used herein, "earth movement" means:

1. Earthquake, including land shock waves or tremors before, during or after a volcanic eruption;
2. Landslide, mudslide or mudflow;
3. Subsidence or sinkhole; or
4. Any other earth movement including earth sinking, rising or shifting;

caused by or resulting from human or animal forces or any act of nature.

Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss. This exclusion applies whether or not the loss event results in widespread damage or affects a substantial area.

If this exclusion applies, then Subparagraph 2.a.(1) of Paragraph C. Loss Settlement (SECTION I – CONDITIONS) as amended by this endorsement is deleted and replaced with the following:

- (1) The limit of liability under this policy that applies to the building without regard to the Additional Amount of Insurance;

All other terms and conditions of the policy remain the same.

This endorsement, effective 12:01 A.M., 11/15/2012  
Forms a part of Policy No.: 28392450  
Issued to: Hernandez, Aaron  
By: Lexington Insurance Company

**(1) OUTDOOR SWIMMING POOL OR OTHER SIMILAR BASIN – COVERAGE  
PROVIDED UNDER COVERAGE B ONLY AND  
(2) EXCLUSION FOR FAILURE TO MAINTAIN PROPER WATER LEVEL IN A  
SWIMMING POOL ENDORSEMENT**

This endorsement modifies insurance provided by the policy:

Notwithstanding any other provision of this policy to the contrary, an "outdoor swimming pool, spa, hot tub, or any other similar basin" shall only be covered under Coverage B – Other Structures.

As used herein, "outdoor swimming pool, spa, hot tub, or any other similar basin" means a swimming pool, spa, hot tub, or any other similar basin which is not entirely contained within the outer, solid, weight-bearing frame of your dwelling, including the basement.

Paragraph 10. is added to **SECTION I – EXCLUSIONS** as follows:

**10. Failure to Maintain Proper Water Level in a Swimming Pool**

The insured's failure or any other person's failure while acting on the insured's behalf, to maintain the proper water level in your swimming pool in accordance with maintenance guidelines governing the care of such swimming pool.

All other terms and conditions of the policy remain the same.

This endorsement, effective 12:01 A.M., 11/15/2012  
Forms a part of Policy No.: 28392450  
Issued to: Hernandez, Aaron  
By: Lexington Insurance Company

### SPECIFIC BUILDING MATERIALS EXCLUSION

This endorsement modifies insurance provided by the policy:

- I. With respect to **Coverage A – Dwelling, Coverage B – Other Structures, Coverage C – Personal Property, and Coverage D – Loss of Use**, we do not cover direct or indirect loss or damage, loss of use, or any ensuing loss or resulting damage arising out of or caused by: (i) any material in or the composition of the "specific building material(s)", (ii) the deterioration of "specific building material(s)" or (iii) the presence, existence, discharge, dispersal, seepage, migration, release, or escape of any solid, liquid, or gaseous material from "specific building material(s)" which results in loss or damage to such "specific building material(s)" or any dwelling, other structures, personal property, or property of others.
- II. **Coverage E – Personal Liability and Coverage F – Medical Payments to Others** do not apply to "bodily injury", "property damage" or any other loss, cost, damage, expense, injury, claim or "suit", caused by, arising out of, or resulting directly or indirectly, in whole or in part from: (i) any material in or the composition of the "specific building material(s)", (ii) the deterioration of "specific building material(s)" or (iii) the presence, existence, discharge, dispersal, seepage, migration, release, or escape of any solid, liquid, or gaseous material from "specific building material(s)".

In addition, we will not pay any loss, cost or expense arising out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of the presence, existence, discharge, dispersal, seepage, migration, release, or escape of any solid, liquid, or gaseous material from "specific building material(s)".

As used herein, "specific building material(s)" means drywall, plasterboard, wallboard, gypsum board, sheetrock, blue board, or greenboard and includes the outer paper or other covering which forms a part of such aforementioned building materials.

If any provision contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without invalidating the remainder of such provision.

All other terms and conditions of the policy remain the same.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## SPECIAL PROVISIONS

The following provisions supersede any contrary provisions of the State Specific Special Provisions and the Homeowners 3 - Special Form, Homeowners 4 - Contents Broad Form and Homeowners 6 - Unit Owners Form where permitted by law:

**DEDUCTIBLE CLAUSE** – is deleted and replaced with the following:

### DEDUCTIBLE

Unless otherwise noted in this policy, the following deductible provision applies:

Subject to the policy limits that apply, we will pay only that part of the total of all loss payable under Section I – Property Coverages that exceed the applicable deductible amount or percentage shown in the Declarations. Under no circumstance shall the applicable deductible be less than the All Other Peril (AOP) deductible shown in the Declarations.

### SECTION I – PROPERTY COVERAGES

**B. COVERAGE B – Other Structures.** Subparagraph 3. of Paragraph B. in Form HO 00 03 is deleted and replaced by the following:

3.  
The limit of liability for this coverage shall not exceed the amount shown in the Declarations.

### SECTION I – PERILS INSURED AGAINST

**A. Coverage A – Dwelling And Coverage B – Other Structures** Subparagraph 2.c.(1) of Paragraph A. in Form HO 00 03 is deleted and replaced by the following:

(1) Freezing of a plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance, or by discharge, leakage or overflow from within the system or appliance caused by freezing. This provision does not apply if you have used reasonable care to:

(a) Maintain heat in the building; or

(b) Shut off the water supply and drain all systems and appliances of water;

However, if the building is protected by an automatic fire protective sprinkler system, you must use reasonable care to continue the water supply and maintain heat in the building for coverage to apply.

### SECTION I – EXCLUSIONS

Subparagraph 10., Act of Terrorism is added to Paragraph A. in Form HO 00 03 (Paragraph 10., Act of Terrorism is added to **SECTION I – EXCLUSIONS** in Forms HO 00 04 & HO 00 06) as follows:

#### 10. Act of Terrorism

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.

It is hereby understood and agreed, that notwithstanding any provision to the contrary, it is agreed that this policy excludes, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with biological, chemical, or nuclear pollution or contamination arising



out of any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

The policy 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 biological, chemical, or nuclear pollution or contamination arising out of an act of terrorism.

Nothing in this exclusion shall be construed to exclude loss, damage or cost or expense of whatsoever nature arising out of fire following any nuclear incident.

## **SECTION I - CONDITIONS**

Subparagraph 2.f. is added to Paragraph C., Loss Settlement in Form HO 00 03 (Subparagraph 1. in HO 00 04; Subparagraph 2.c. in HO 00 06) as follows:

- f. If, at the time of loss, the building(s) under Coverage A or B are being repaired, renovated, rebuilt or under construction, the maximum amount of insurance on the damaged building will be the proportion of the value of the building that the actual cash value of the building, on that date, bears to the value when completed. You and we agree that, for insurance purposes only, the value of the building is the amount shown on the Declarations.

Paragraph Q., Concealment Or Fraud in Form HO 00 03 & HO 00 06 (Paragraph P. in Form HO 00 04) is deleted and replaced with the following:

### **Q. Concealment Or Fraud**

We provide coverage to no "insureds" under this policy if, whether before or after a loss, an "insured" has:

1. Intentionally concealed or misrepresented any material fact or circumstance;
2. Engaged in fraudulent conduct; or
3. Made false statements;

relating to this insurance. In addition to not providing coverage, we at our option may choose to void the entire policy.

## **SECTION II - EXCLUSIONS**

E. Coverage E – Personal Liability and Coverage F – Medical Payments To Others Subparagraph 1. of Paragraph E. is deleted and replaced with following:

Coverages E and F do not apply to the following:

### **1. Expected or Intended Injury**

"Bodily injury" or "property damage" which is reasonably expected or intended from the standpoint of the "insured" even if the resulting "bodily injury" or "property damage":

- a. Is of a different kind, quality or degree than initially expected or intended; or
- b. Is sustained by a different person, entity, real or personal property, than initially expected or intended.

The reasonable person standard applies even if the "insured" lacked the mental capacity to formulate an intent or expectation.

E. Coverage E – Personal Liability and Coverage F – Medical Payments To Others Subparagraph 9. is added to Paragraph E. as follows:

Coverages E and F do not apply to the following:

### **9. Punitive or Exemplary Damages**

Punitive or exemplary damages alleged in any claim or suit nor do we have any obligation to pay any costs, interests, or damages attributable to such punitive or exemplary damages.

## SECTION II – CONDITIONS

Paragraph J., **Concealment Or Fraud** is deleted and replaced with the following:

### **J. Concealment Or Fraud**

We provide coverage to no "insureds" under this policy if, whether before or after a loss, an "insured" has:

1. Intentionally concealed or misrepresented any material fact or circumstance;
2. Engaged in fraudulent conduct; or
3. Made false statements;

relating to this insurance. In addition to not providing coverage, we at our option may choose to void the entire policy.

## SECTION I AND II – CONDITIONS

Paragraph C., **Cancellation** and Paragraph D., **Nonrenewal** are deleted and replaced with the following new paragraphs:

### **C. Cancellation**

1. You may cancel this policy at any time by returning it to us or by letting us know in writing of the date cancellation is to take effect.
2. We may cancel this policy only for the reasons stated below by letting you know in writing of the date cancellation takes effect. This cancellation notice may be delivered to you, or mailed to you at your mailing address shown in the Declarations. Proof of mailing will be sufficient proof of notice.
  - a. When you have not paid the premium, we may cancel at any time by letting you know at least 10 days before the date cancellation takes effect.
  - b. When this policy has been in effect for less than 60 days and is not a renewal with us, we may cancel for any reason by letting you know at least 10 days before the date cancellation takes effect.
  - c. When this policy has been in effect for 60 days or more, or at any time if it is a renewal with us, we may cancel:
    - (1) If there has been a material misrepresentation of fact which if known to us would have caused us not to issue the policy; or
    - (2) If the risk has changed substantially since the policy was issued.This can be done by letting you know at least 30 days before the date cancellation takes effect.
  - d. When this policy is written for a period of more than one year, we may cancel for any reason at anniversary by letting you know at least 30 days before the date cancellation takes effect.
3. If this policy is canceled, we will send you any premium refund due. If we cancel, the refund will be pro rata. If you cancel, the earned premium will be calculated on a pro rata basis subject to the Minimum Earned Premium shown in the Declarations.

Your failure to make timely payment of premium shall be considered a request by you for us to cancel this policy on your behalf. In the event of such cancellation for non-payment of premium, the Minimum Earned Premium shall be due and payable, provided, however, such cancellation shall be rescinded if you remit and we receive the full policy premium within 10 days after the date of issuance of the cancellation notice.
4. If the return premium is not refunded with the notice of cancellation or when this policy is returned to us, we will refund it within a reasonable time after the date cancellation takes effect.
5. The cancellation will be effective even if we have not made or offered a refund.

### **D. Nonrenewal**

We may elect not to renew this policy. We may do so by delivering to you, or mailing to you at your mailing address shown in the Declarations, written notice at least 30 days before the expiration date of this policy. Proof of mailing will be sufficient proof of notice.

Paragraph H. **Renewal** is added as follows:

**H. Renewal**

Any provision pertaining to **Renewal** in any State Specific Special Provisions endorsed onto this policy is hereby deleted.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WINDSTORM OR HAIL PERCENTAGE DEDUCTIBLE**  
**ALL FORMS EXCEPT HO 00 04 and HO 00 06**

We will pay only that part of the total of the loss for all Section I Property Coverages that exceeds the windstorm or hail percentage deductible stated in this endorsement. This deductible applies in the event of direct physical loss to property covered under this policy caused directly or indirectly by windstorm or hail. Such Deductible applies regardless of any other cause or event contributing concurrently or in any sequence to the loss. No other deductible provision in the policy applies to direct physical loss caused by windstorm or hail.

In determining the amount, if any, that we will pay for loss or damage, we will deduct an amount equal to 0%\* or \$\* 5,000 of the limit of liability that applies to Coverage A - Dwelling in the policy to which this endorsement is attached, subject to a minimum \$3,000 windstorm or hail deductible.

\*Entries may be left blank if shown elsewhere in this policy for this coverage.

All other terms and conditions of the policy remain the same.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# **LIMITED FUNGUS(I), MOLD(S), SPORE(S), WET OR DRY ROT, BACTERIA, MILDEW OR YEAST COVERAGE**

## **SCHEDULE\***

|  |   |          |
|--|---|----------|
| These limits of liability apply to the total of all loss or costs payable under this endorsement, regardless of the number of "occurrences", the number of claims made, or the number of locations insured under this endorsement and listed in this Schedule. |   |          |
| 1.   | Section I – Property Coverage Limit Of Liability for the Additional Coverage "Mold Related Items" | \$ 5,000 |
| 2.   | Section II – Coverage E Aggregate Sublimit Of Liability for "Mold Related Items"                  | \$ 5,000 |
| *Entries may be left blank if shown elsewhere in this policy for this coverage.  |   |          |

## **DEFINITIONS**

The following definitions are added:

1. "Mold Related Items" include the following definitions for "Fungus(i)", "Mold(s)", "Spore(s)", but also includes, Wet or Dry Rot, Bacteria, Mildew or Yeast.
  - a. "Fungus(i)" includes, but is not limited to, any of the plants or organisms belonging to the major group Fungi, lacking chlorophyll, and including molds, rusts, mildews, smuts, mushrooms, and any mycotoxins, spores, scents or byproducts produced or released by fungi.
  - b. "Mold(s)" includes, but is not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and fungi that produce molds.
  - c. "Spore(s)" means any dormant or reproductive body produced by or arising or emanating out of any "fungus(i)", "mold(s)", mildew, plants, organisms or microorganisms.

## **SECTION I – PROPERTY COVERAGES**

The following Additional Coverage is added:

13. "Mold Related Items" (or Subparagraph 12. if this endorsement is attached to HO 00 06)
  - a. The amount shown in the Schedule above is the most we will pay for:

- (1) The total of all loss payable under Section I – Property Coverages caused by "mold related items";
- (2) The cost to remove "mold related items" from property covered under Section I – Property Coverages;
- (3) The cost to tear out and replace any part of the building or other covered property as needed to gain access to the "mold related items"; and
- (4) The cost of testing of air or property to confirm the absence, presence or level of "mold related items" whether performed prior to, during or after removal, repair, restoration or replacement. The cost of such testing will be provided only to the extent that there is a reason to believe that there is the presence of "mold related items".
- b. The coverage described in 13.a. (or Subparagraph 12.a. if this endorsement is attached to HO 00 06) only applies when such loss or costs are a result of a Peril Insured Against that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at and after the time the Peril Insured Against occurred.
- c. The amount shown in the Schedule for this coverage is the most we will pay for the total of all loss or costs payable under this Additional Coverage regardless of the:

- (1) Number of locations insured under this endorsement; or
- (2) Number of claims made.
- d. If there is covered loss or damage to covered property, not caused, in whole or in part, by "mold related items", loss payment will not be limited by the terms of this Additional Coverage, except to the extent that "mold related items" causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Endorsement.

This coverage does not increase the limit of liability applying to the damaged covered property.

### SECTION I – PERILS INSURED AGAINST

If this endorsement is attached to HO 00 03 without LEX 15 31 or HO 00 03, HO 00 04 and HO 00 06 with LEX 15 31:

Paragraph A.2.c.(6)(c) or 1.b.(5)(c) (if LEX 15 31 is attached) is deleted and replaced by the following:

(c) or (c) Smog, rust or other corrosion;

Paragraph A.2.c.(6)(i) or 1.b.(5)(i) (if LEX 15 31 is attached) is added:

- (i) or (i) Constant or repeated seepage or leakage of water or the presence or condensation of humidity, moisture or vapor, over a period of weeks, months or years unless such seepage or leakage of water or the presence or condensation of humidity, moisture or vapor and the resulting damage is unknown to all "insureds" and is hidden within the walls or ceilings or beneath the floors or above the ceilings of a structure.

In Form HO 00 06 with HO 17 32:

For Coverage A:

Paragraph 2.c.(5) is deleted and replaced with the following:

- (5) Constant or repeated seepage or leakage of water or the presence or condensation of humidity, moisture or vapor, over a period of weeks, months or years unless such seepage or leakage of water or the presence or condensation of humidity, moisture or vapor and the resulting damage is unknown to all "insureds" and is hidden within the walls or ceilings or beneath the floors or above the ceilings of a structure.

Paragraph 2.c.(6)(c) is deleted and replaced by the following:

(c) Smog, rust or other corrosion;

### SECTION I – EXCLUSIONS

Exclusion A.10. (or Exclusion 10. if this endorsement is attached to either a HO 00 04 or HO 00 06) is added.

#### 10. "Mold Related Items"

"Mold Related Items" means the presence, growth, proliferation, spread or any activity of "mold related items".

This Exclusion does not apply:

- a. When "Mold Related Items" results from fire or lightning; or
- b. To the extent coverage is provided for in the "Mold Related Items" Additional Coverage under Section I – Property Coverages with respect to loss caused by a Peril Insured Against other than fire or lightning.

Direct loss by a Peril Insured Against resulting from "Mold Related Items" is covered.

### SECTION I – CONDITIONS

Condition P. Policy Period (or Condition O. if this endorsement is attached to HO 00 04) is deleted and replaced by the following:

#### P. Policy Period

This policy applies only to loss or costs which occur during the policy period.

### SECTION II – CONDITIONS

Condition A. Limit Of Liability is deleted and replaced by the following:

#### A. Limit Of Liability

Our total liability under Coverage E for all damages resulting from any one "occurrence" will not be more than the Coverage E limit of liability shown in the Declarations. This limit is the same regardless of the number of "insureds", claims made or persons injured. All "bodily injury" and "property damage" resulting from any one accident or from continuous or repeated exposure to substantially the same general harmful conditions will be considered to be the result of one "occurrence".

Our total liability under Coverage F for all medical expense payable for "bodily injury" to one person as the result of one accident will not be more than the Coverage F limit of liability shown in the Declarations.

However, our total liability under Coverage E for the total of all damages arising directly or indirectly, in whole or in part, out of the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of any "Mold Related Items" will not be more than the Section II – Coverage E Aggregate Sublimit Of Liability for "Mold Related Items". That sublimit is the amount shown in the Schedule. This is the most we will pay regardless of the:

- a. Number of locations insured under the policy to which this endorsement is attached;
- b. Number of persons injured;
- c. Number of persons whose property is damaged;
- d. Number of "insureds"; or
- e. Number of "occurrences" or claims made.

This sublimit is within, but does not increase, the Coverage E limit of liability. It applies separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations.

With respect to damages arising out of "Mold Related Items" described in A. Limit Of Liability of this endorsement, Condition B. **Severability Of Insurance** is deleted and replaced by the following:

**B. Severability Of Insurance**

This insurance applies separately to each "insured" except with respect to the Aggregate Sublimit of Liability described in this endorsement under Section II – Conditions 1., Limit Of Liability. This condition will not increase the limit of liability for this coverage.

All other terms and conditions of the policy remain the same.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### WATER BACK UP AND SUMP OVERFLOW

1. For an additional premium, we insure, up to \$ 25000 for direct physical loss, not caused by the negligence of any "insured," to property covered under Section I caused by:

- a. Water which backs up through sewers or drains; or
- b. Water which overflows from a sump pump even if such overflow results from the mechanical breakdown of the sump pump. This coverage does not apply to direct physical loss of the sump pump, or related equipment, which is caused by mechanical breakdown.

This endorsement does not increase the limits of liability for Coverages A, B, C or D stated in the policy Declarations.

2. **Special Deductible**

The following deductible provision replaces any other deductible provision in the policy with respect to loss covered under this endorsement.

We will pay only that part of the loss which exceeds \$250. No other deductible applies to this coverage. This deductible does not apply with respect to Coverage D – Loss of Use.

3. **Section I – Perils Insured Against**

With respect to coverage described in 1. above only, Paragraph:

A.2.c.(6)(b) in Form HO 00 03 without LEX 15 31;

1.b.(5)(b) in Form HO 00 03, HO 00 04, or HO 00 06 with LEX 15 31;

2.c.(6)(b) in Form HO 00 06 with HO 17 32;

is deleted and replaced with the following:

Latent defect, inherent vice, or any quality in property that causes it to damage or destroy itself;

4. **SECTION I – EXCLUSIONS**

The **Water Damage** exclusion is deleted and replaced by the following:

Water Damage, meaning:

- a. Flood, surface water, waves, tidal water, overflow of a body of water, or spray from any of these, whether or not driven by wind;
- b. Water, or water-borne material, which:
  - (1) Backs up through sewers or drains; or
  - (2) Overflows or is discharged from a sump, sump pump or related equipmentas a direct or indirect result of flood; or
- c. Water, or water-borne material, below the surface of the ground, including water which:
  - (1) Exerts pressure on; or
  - (2) Seeps or leaks through;a building, sidewalk, driveway, foundation, swimming pool or other structure; caused by or resulting from human or animal forces or any act of nature.  
Direct loss by fire or explosion resulting from water damage is covered.

All other terms and conditions of the policy remain the same.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PROPERTY REMEDIATION FOR ESCAPED LIQUID FUEL  
&  
LIMITED LEAD AND ESCAPED LIQUID FUEL  
LIABILITY COVERAGES**

**ADVISORY NOTICE TO POLICYHOLDERS**

**THIS NOTICE DOES NOT PROVIDE COVERAGE NOR DOES THIS NOTICE 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 WITH. IF THERE IS ANY CONFLICT BETWEEN THE POLICY AND THIS NOTICE, THE PROVISIONS OF THE POLICY SHALL PREVAIL.**

**THE POLICY YOU HAVE JUST APPLIED FOR OR RECEIVED HAS:**

- Added coverage for damage to your property caused by the escape of certain petroleum products that may be found in or on your home, your residential unit in an apartment, condominium or cooperative building, your household or personal property, other real property you own that is covered in this policy and land on which your home or unit or covered personal property is located; and
- Reduced liability coverage for injury to another person, or damage to the property of others, that is caused by the escape of certain petroleum products or by lead on or emanating from an insured location such as your house, any other premises where you are living but which you do not own, or vacant land that you own.

**ESCAPED FUEL REMEDIATION**

If liquid fuel escapes from a fuel storage system on your property, loss or damage caused by the escaped fuel to your home, personal property, any other one, two, three or four family dwelling building you own and insure for remediation coverage will be covered. Additionally, your land on which the house, other structures or other dwelling building you own are situated will be covered for loss or damage. Coverage will apply when the fuel storage tanks, vessels and/or containers on your property have a total combined storage capacity of 100 or more U.S. gallons of liquid fuel. Coverage will also be provided for:

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

1. The cost of making temporary repairs to stop the further escape of liquid fuel, or to retard or stop the spread of escaped liquid fuel.
2. Reasonable expenses to test, monitor or assess the effects of escaped liquid fuel required by law, or when a governmental agency or a court of law requests, orders or demands that you do so.
3. Loss or damage to your trees, shrubs and plants that are not grown for business; and
4. Additional living expenses you incur to maintain your normal standard of living.

However, there will be no coverage:

1. For a reduction in the market value of your house and any other dwelling building you own, including the land on which they are situated, or your personal property, whether or not such property has been damaged;
2. For damages resulting from the loss of a pending sale of your house and, if covered under this policy, other dwelling buildings, other structures and your personal property;
3. To replace any of the escaped fuel;
4. For any expense you incur to demolish, repair or replace any part of your fuel system; and
5. For any damages resulting from an escape of liquid fuel from one or more containers, tanks or vessels or related lines or parts that are connected to or a part of a motor vehicle, motorized land conveyance or watercraft.

Our Limit of Liability

We will provide up to \$10,000 of coverage. The limit is the most we will pay for the total of all loss, damage or expense caused by the escape of liquid fuel from your fuel system during the policy period regardless of the number of locations insured under your policy, the number of escapes of liquid fuel you discover or learn of during the policy period or the number of claims made.

Your Deductible

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

We will apply the AOP (all other perils) deductible shown on the declaration page to any loss.

**LEAD AND ESCAPED FUEL LIABILITY COVERAGE**

1. We have limited your coverage when a claim is made or a suit is brought against you by another person alleging damages because of:
  - a. bodily injury arising out of the absorption, ingestion or inhalation of lead that is in or on your home or your residential unit, any other structures you may own, your personal property, and soil on any insured location;
  - b. property damage arising out of lead contamination, but only if the lead originates at an insured location; or
  - c. bodily injury or property damage arising out of the escape of liquid fuel from your fuel storage system when the fuel storage tanks, vessels and/or containers have a total combined storage capacity of 100 or more U.S. gallons of liquid fuel and the fuel is used to heat or cool your dwelling, heat water, cook food, or power your motor vehicle, recreational vehicle or boat not used in any business.
2. The limit of liability is provided on an aggregate basis. This means that the limit for liability coverage is the most we will pay for all damages resulting from the total of all bodily injury or property damage, occurring during the entire policy period, that is caused by the escape of liquid fuel from your fuel system or the exposure to lead. This aggregate limit is the most we will pay regardless of the number of locations insured under the policy, number of insureds, number of persons injured by the lead or escaped fuel, number of persons whose property is damaged by the lead or escaped fuel or the number of claims made against you.

We will provide up to \$50,000 of coverage.

All other terms, conditions and exclusions of this policy remain the same.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

ALEXANDER S. BRADLEY,

Plaintiff,

13 Civ.

COMPLAINT

JURY TRIAL DEMANDED

-against-

AARON HERNANDEZ,

Defendant.

Plaintiff, by his attorneys, Jaroslawicz & Jaros LLC and Waks & Barnett, P.A.,  
complaining of the defendant, alleges as follows:

THE PARTIES

1. At all times hereinafter mentioned, plaintiff is a citizen of the State of Connecticut.
2. At all times hereinafter mentioned, defendant is a citizen of the State of Massachusetts.

JURISDICTION AND VENUE

3. That the amount in controversy exceeds the sum of \$100,000, exclusive of interest and costs.
4. That this Court has jurisdiction over the parties by reason of diversity of citizenship and the amount in controversy, pursuant to 28 U.S.C. 1332.

5. Pursuant to 28 U.S.C. 1391(b)(2), venue is properly placed in the United States District Court for the Southern District of Florida since this is the place where all the events occurred and this is the most convenient place for the trial of this action.

THE UNDERLYING FACTS

6. That on or about February 13, 2013, the plaintiff and defendant, with a group of other people, went to spend the evening at Tootsie's a strip club located in Miami, Florida.

7. That while at the club in question, plaintiff and defendant had an argument.

8. Thereafter plaintiff and defendant and two other persons were driving from Miami towards Palm Beach, Florida.

9. Defendant had in his possession a gun. The gun discharged.

10. That at all times material, the defendant owed the duty to use reasonable care while he was with the plaintiff.

AS AND FOR A FIRST CLAIM FOR RELIEF

NEGLIGENCE

11. Defendant caused the gun to go off while aiming it at the plaintiff.

12. That the defendant breached the duty of care which he owed to the plaintiff and was negligent and grossly negligent in one or more of the following manners:

- (a) Defendant caused plaintiff to be shot;
- (b) Defendant failed to use the gun in a proper manner;
- (c) Defendant possessed a gun which he was not legally licensed to have;
- (d) Defendant failed to be properly trained in the use of firearms; and

(e) Defendant was otherwise reckless, careless and negligent.

13. That as a direct and proximate result of the negligence of the defendant as described, plaintiff suffered bodily injury, including loss of his right eye; multiple surgeries in the area of the right eye to reconstruct his face and plaintiff will require additional surgeries; plaintiff had plates and screws inserts in the right side of his face; pain and twitches; jaw pain and TMJ; headaches; difficulty eating; plaintiff requires a bite plate; plaintiff also suffered injury to his right dominant hand and arm, requiring surgery and may require further surgery; extreme pain and suffering; mental anguish and distress; cosmetic deformity; scarring; plaintiff will require extensive medical care and treatment for the rest of his life; plaintiff has become substantially disabled; unable to attend to his usual duties and vocation; and plaintiff has been otherwise damaged, all of which damages are permanent in nature and continuing into the future.

14. By reason of the defendant's gross negligence, plaintiff is entitled to recover all damages, including actual and punitive damages from the defendant.

AS AND FOR A SECOND CLAIM FOR RELIEF

INTENTIONAL TORT

15. Plaintiff repeats, reiterates and realleges each of the foregoing allegations with the same force and effect as if more fully set forth at length herein.

16. That the defendant's actions in having the gun discharge while aimed at the plaintiff were deliberate and with the intent by defendant to cause harm to plaintiff.

17. As a result of the intentional acts by defendant, plaintiff suffered severe and permanent personal injuries as set forth above.

18. By reason of the defendant's intentional conduct, plaintiff is entitled to recover all damages, including actual and punitive damages from the defendant.

WHEREFORE, plaintiff demands judgment for damages against the defendant, both actual and punitive damages, as well as costs of this action, for prejudgment interest, for trial by jury, and any other relief deemed just and appropriate by this Honorable Court.

JAROSLAWICZ & JAROS, LLC  
Co-Counsel for Plaintiff  
225 Broadway, 24<sup>th</sup> Floor  
New York, New York 10007  
(212) 227-2780  
[dj@lawjaros.com](mailto:dj@lawjaros.com)

WAKS & BARNETT, P.A.  
Co-Counsel for Plaintiff  
9900 S.W. 107<sup>th</sup> Avenue, Suite 101  
Miami, Florida 33176  
(305) 271-8282  
[waksbar@aol.com](mailto:waksbar@aol.com)

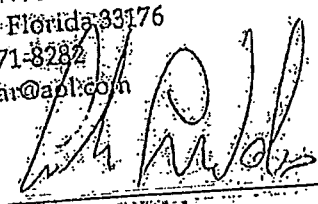
By:   
Andrew L. Waks

Exhibit C

**WAKS & BARNETT, P.A.**  
*Attorneys at Law*

Andrew L. Waks \*

Joel M. Barnett  
Jennifer Thompson

\*Board Certified in  
Admiralty & Maritime Law

February 19, 2014

**Sent via Certified Mail and regular mail**

Lexington Insurance Company  
Attn: Claims Dept.  
100 Summer Street  
Boston, Massachusetts 02110

|     |               |                                  |
|-----|---------------|----------------------------------|
| Re: | Your Insured: | Aaron Hernandez                  |
|     | Policy no:    | 28392450                         |
|     | D/Incident:   | February 13 <sup>th</sup> , 2013 |
|     | My client:    | Alexander Bradley                |

Dear Sir or Madam:

Please be advised that the undersigned attorney, with David Jaroslawicz, Esquire, represent Alexander Bradley in connection with injuries he suffered as a result of a discharge from a gun which was in possession of your insured, Aaron Hernandez.

The incident occurred on the evening of February 13<sup>th</sup>, 2013. Your insured, Aaron Hernandez, and Mr. Bradley were in a motor vehicle which had previously been at the premises of a nightclub known as TOOTSIES in Miami. Subsequent to leaving the club the vehicle stopped and Mr. Hernandez and Mr. Bradley got out of the car. Mr. Hernandez had a gun in his possession which discharged, striking Mr. Bradley in the right side of his face causing serious injuries. The globe to Mr. Bradley's right eye was essentially destroyed and he received multiple facial fractures. These injuries required several surgeries. The first surgery involved removal of the destroyed globe and placement of an implant. Mr. Bradley is now blind in the eye. The second surgery was to repair multiple fractures on the right side of his face. Mr. Bradley has lost feeling in the area and it is believed that the condition will be permanent.

We are hereby enclosing a copy of the Complaint which has been filed in the U.S. District Court for the Southern District of Florida. In the Complaint we have alleged negligence against Mr. Hernandez. In addition, we are enclosing medical records with regard to the injuries received by Mr. Bradley, including the operative reports regarding the surgeries which were required as a result of the injuries.

Your policy under Section E indicates that Mr. Hernandez has liability limits in the amount of \$500,000.00. We have been given authority to settle any and all claims by Mr. Bradley as against Mr. Hernandez for your policy limits in the amount of \$500,000.00. In

9900 SW 107<sup>th</sup> Ave., #101, Miami, FL 33176

Dade: (305) 271-8282  
Broward: (954) 463-6667

Fax: (305) 595-9776  
Toll Free: (800) 905-2891

E-mail: [waksbar@aol.com](mailto:waksbar@aol.com)  
Website: [www.cruiselawyers.com](http://www.cruiselawyers.com)



Lexington Insurance Company  
Attn: Claims Dept.  
Re: Your Insured: Aaron Hernandez  
Policy no: 28392450  
D/Incident: February 13<sup>th</sup>, 2013  
February 19, 2014  
-Page 2 -

exchange for payment of the policy limits, we will provide a release and will enter into a stipulation for dismissal of the present action with prejudice.

This claim has a value which is clearly in excess of the policy limits in the amount of \$500,000.00. Mr. Bradley was severely injured, including blindness in his right eye. The records indicate that the loss of feeling on the right side of Mr. Bradley's face may be permanent. Mr. Bradley is only 31 years old. Given the injuries, as well as the potential for future medical treatment, we believe that a reasonable jury verdict in this case will easily exceed One Million Dollars (\$1,000,000.00). Payment of the policy limits will protect Mr. Hernandez from a judgment in excess of the policy limits of \$500,000.00. Failure to pay the policy limits may result in future litigation based on bad faith as a result of a judgment in excess of policy limits.

Our offer to accept policy limits in this matter will expire within thirty (30) days from the date of this letter. We look forward to your earliest advices. We are providing a copy of this letter to your insured.

Very truly yours,

WAKS & BARNETT, P.A.

Andrew L. Waks

ALW/mc

Encl.

cc: Stephen Gillman, Esq.  
David Jaroslawicz, Esq.  
Insurance Innovators Agency of New England, Inc. ✓  
Policy # 28392450

Dade: (305) 271-8282  
Broward: (954)-463-6667

9900 SW 107<sup>th</sup> Ave., #101, Miami, FL 33176

E-mail: [waksbar@aol.com](mailto:waksbar@aol.com)  
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## MORRISON MAHONEY LLP

COUNSELLORS AT LAW

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BOSTON, MASSACHUSETTS 02210-1181  
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ENGLAND  
LONDONNEW HAMPSHIRE  
MANCHESTER  
NEW JERSEY  
PARSIPPANY  
NEW YORK  
NEW YORK  
RHODE ISLAND  
PROVIDENCE

March 12, 2014

**VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
COPY BY FIRST CLASS MAIL**Stephen Gillman, Esq.  
Shutts & Bowen LLP  
201 South Biscayne Blvd.  
Suite 1500 Miami Center  
Miami, FL 33131Re: Alexander S. Bradley  
v. Aaron Hernandez  
United States District Court  
Southern District of Florida Docket No.: 1:13-cv-22196  
Insured: Aaron Hernandez  
Insurer: Lexington Insurance Company  
Policy No.: 28392450 (11/15/2012-2013)  
Date of Alleged Incident: February 13, 2013  
Our File No.: 10055139

Dear Mr. Gillman:

This firm has been retained to represent Lexington Insurance Company with respect to the above-captioned matter. Lexington Insurance Company issued the above-captioned homeowners' policy to your client, Mr. Aaron Hernandez. The policy was in effect during the period from November 15, 2012 to November 15, 2013.

As you know, Lexington Insurance Company has recently been informed of claims asserted by Alexander Bradley against Mr. Hernandez on account of an incident allegedly occurring on February 13, 2013, and of a legal action commenced against Mr. Hernandez by Mr. Bradley in the United States District Court for the Southern District of Florida. Lexington Insurance Company was informed of Mr. Bradley's claim and of the legal action by a letter, dated February 19, 2014, sent to it by Mr. Bradley's attorney. The letter identifies you as a recipient of a copy of the letter.

MORRISON MAHONEY LLP

Stephen Gillman, Esq.

March 12, 2014

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I am enclosing a copy of a letter which, on behalf of Lexington Insurance Company, I have sent to Mr. Bradley's attorney.

Subsequent to receiving Mr. Bradley's attorney's February 19, 2014 letter, Lexington Insurance Company determined that Mr. Bradley had commenced the legal action against Mr. Hernandez on June 19, 2013 and that, on July 18, 2013, you filed a notice of appearance on Mr. Hernandez' behalf. Until Lexington Insurance Company's receipt of the February 19, 2014 letter, it had not been informed of Mr. Bradley's claim, nor of the commencement of the legal action against Mr. Hernandez, nor of the service of suit papers on him. Nor had Mr. Hernandez informed Lexington Insurance Company of the February 13, 2013 incident which serves as the basis for the legal action against him.

A copy of Mr. Bradley's complaint was enclosed with the February 19, 2014 letter. Lexington Insurance Company has reviewed the complaint and the allegations made against Mr. Hernandez. Mr. Bradley alleges that, on February 13, 2013, he and Mr. Hernandez, with a group of other people, went to spend the evening at Tootsie's, a strip club located in Miami, Florida; that, while at the club, Mr. Bradley and Mr. Hernandez had an argument; that, thereafter, Mr. Bradley and Mr. Hernandez, and two other persons, were driving from Miami towards Palm Beach, Florida; that Mr. Hernandez had a gun in his possession; and that the gun discharged.

Mr. Bradley's complaint contains two claims for relief. The first claim is for negligence. It alleges that Mr. Hernandez "caused the gun to go off while aiming it at the plaintiff," and that he was negligent and grossly negligent in causing Mr. Bradley to be shot, in failing to use the gun in a proper manner, in possessing a gun for which he was not legally licensed to have, in failing to be properly trained in the use of firearms, and in otherwise acting in a reckless, careless and negligent manner.

The second claim for relief alleges an intentional tort, specifically alleging that Mr. Hernandez' "action in having the gun discharge while aimed at the plaintiff were deliberate and with the intent by [Mr. Hernandez] to cause harm to plaintiff."

Mr. Bradley alleges that he is entitled to recover damages, both actual and punitive damages, for the acts and conduct of Mr. Hernandez.

The homeowners' policy issued by Lexington Insurance Company provides coverage, pursuant to its terms and provisions, to Mr. Hernandez in certain situations. Inasmuch as Mr. Hernandez did not inform Lexington Insurance Company of the commencement of this action, but, rather, retained you to represent him, one of the purposes of this letter is to inquire whether or not Mr. Hernandez wishes Lexington Insurance Company to provide him with a defense to the

Stephen Gillman, Esq.

March 12, 2014

Page 3

action brought against him by Mr. Bradley. Lexington Insurance Company is agreeable to provide Mr. Hernandez with a defense, at his sole expense, as of, on and from the date on which it is informed by Mr. Hernandez that he wishes it to defend him. However, because of the nature and type of the allegations made by the plaintiff, there exists a distinct possibility that the policy might not provide coverage to Mr. Hernandez for the claims asserted against him. Consequently, the defense which Lexington Insurance Company is agreeable and prepared to provide to Mr. Hernandez, if he requests it to do so, must be under a reservation of rights.

The reasons for the reservation of rights are based upon, but not limited to, the following alternative grounds:

1. The policy provides coverage for suits brought against an insured for damages because of bodily injury caused by an occurrence to which the coverage provided by the policy applies. Mr. Bradley's complaint alleges that Mr. Hernandez aimed a gun at the plaintiff and caused the gun to go off. Additionally, the complaint alleges that Mr. Hernandez' actions "were deliberate and with the intent by [Mr. Hernandez] to cause harm to plaintiff." Those allegations and claims, if proved, do not allege or involve an occurrence as that term is defined by the policy. The policy defines the term "occurrence" to mean "an accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results, during the policy period, in: (a) 'Bodily injury'." The allegations and claims in the complaint, if proved, do not appear to allege or involve bodily injury caused by an accident.

2. The nature and type of the facts and events, and the injuries and damages, alleged in the complaint, if proved, are such as might have been expected or intended by Mr. Hernandez. The policy may not provide coverage for such claims and allegations. Exclusion E(1) of the policy, as amended by the policy's SPECIAL PROVISIONS endorsement number LEX 01 09 04 11, states that the coverage afforded by the policy does not apply to bodily injury.

... which is reasonably expected or intended from the standpoint of "insured" even if the resulting "bodily injury" ....:

- a. Is of a different kind, quality or degree than initially expected or intended; or
- b. Is sustained by a different person, ... than initially expected or intended.

Stephen Gillman, Esq.

March 12, 2014

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The exclusion further states that the “[t]he reasonable person standard applies even if the ‘insured’ lacked the mental capacity to formulate an intent or expectation.”

3. The complaint alleges that, while Mr. Hernandez and the plaintiff were in a car driving from Miami towards Palm Beach, Florida, Mr. Hernandez shot Mr. Bradley. The policy may not provide coverage for such claims and allegations. Exclusion A(1) states that the coverage provided by the policy does not apply to any “motor vehicle liability” if, at the time and place of an “occurrence”, the motor vehicle is registered for use on public roads. The policy defines the term “motor vehicle liability” to mean “liability for ‘bodily injury’ ... arising out of the ... [m]aintenance, occupancy, operation, use, loading or unloading of such vehicle or craft by any person.”
4. In the complaint, the plaintiff alleges that he is entitled to recover punitive damages from Mr. Hernandez. The policy does not provide coverage, or pay, for an award of punitive damages. Exclusion E(9) of the policy, appearing in the policy’s SPECIAL PROVISIONS endorsement number LEX 01 09 04 11, states that the coverage provided by the policy does not apply to “punitive or exemplary damages alleged in any claim or suit.” Additionally, the exclusion states that Lexington Insurance Company does not “have any obligation to pay any costs, interests, or damages attributable to such punitive or exemplary damages.”
5. The manifest design of a homeowners’ policy, such as the one issued to Mr. Hernandez by Lexington Insurance Company, is to protect homeowners from risks associated with the home and activities related to the home. The allegations and claims in the complaint, if proved, and the injuries and damages alleged in the complaint, are not associated with or related to the home of Mr. Hernandez.
6. Intentional acts and conduct by Mr. Hernandez are alleged in the complaint. There is no coverage in the policy for such intentional acts and conduct.
7. The complaint alleges unlawful and illegal acts and conduct by Mr. Hernandez. Such acts and conduct are not covered by the policy.
8. The complaint alleges unlawful and illegal acts and conduct by Mr. Hernandez. Public policy prohibits providing coverage to such acts and conduct.

Stephen Gillman, Esq.

March 12, 2014

Page 5

9. The complaint alleges that the incident occurred on February 13, 2013. The action was filed on June 19, 2013, and you filed your appearance on behalf of Mr. Hernandez on July 18, 2013. Mr. Hernandez did not inform Lexington Insurance Company of the incident, of the commencement of the litigation, or of the service of suit papers on him. There is, thus, a possibility that he has failed to comply with the terms and conditions of the policy. Paragraph C ("Duties After 'Occurrence'") of SECTION II – CONDITIONS of the policy states that:

In case of an "occurrence", you or another "insured" will perform the following duties that apply. We have no duty to provide coverage under this policy if your failure to comply with the following duties is prejudicial to us. You will help us by seeing that these duties are performed:

1. Give written notice to us or our agent as soon as is practical, which sets forth:
  - a. The identity of the policy and the "named insured" shown in the Declarations;
  - b. Reasonably available information on the time, place and circumstances of the "occurrence"; and
  - c. Names and addresses of any claimants and witnesses;
- ...
3. Promptly forward to us every notice, demand, summons or other process relating to the "occurrence"

The policy may not provide coverage to Mr. Hernandez if he failed to comply with these provisions and if, as a result of that failure, Lexington Insurance Company has been prejudiced.

In light of these alternative, independent reasons, should Mr. Hernandez request Lexington Insurance Company to provide him with a defense to this action, Lexington Insurance Company must reserve the right to disclaim any and/or all liability under the policy should investigation, discovery procedures, or the ultimate trial result show that the coverage provided by the policy is inapplicable to all or a part of the claims asserted against him. Under this reservation of rights, Lexington Insurance Company, at its sole expense, is agreeable to provide a defense to Mr. Hernandez as of, on and from the date that he request it to do so, up to the time

MORRISON MAHONEY LLP

Stephen Gillman, Esq.

March 12, 2014

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that the complaint is brought to a conclusion, whether by judgment or otherwise, or until the time that it becomes clear that the policy does not provide coverage to Mr. Hernandez with respect to this matter.

Please let me know if Mr. Hernandez requests Lexington Insurance Company to provide him with a defense to the action brought against him by Mr. Bradley and if he will agree and consent to Lexington Insurance Company providing that defense under the terms and conditions set forth in this letter. If he does so agree and consent, Lexington Insurance Company will then assign his defense to an attorney. In light of the reservation of rights under which Lexington Insurance Company is agreeable to provide a defense to Mr. Hernandez, should he request it to do so, Mr. Hernandez may select an attorney of his choosing to defend him in that action. In light of the fact that you are currently representing Mr. Hernandez in the action, and have represented him since July 18, 2013; and in light of the advantages of economy, efficiency and harmony which will be achieved by means of a continuing and uninterrupted representation of Mr. Hernandez by the attorney he had initially selected to represent him, Lexington Insurance Company is agreeable, and hereby agrees, that you may continue to represent and defend Mr. Hernandez in this matter.

Lexington Insurance Company agrees that it will pay reasonable attorneys fees incurred by you in that defense, commencing as of, on and from the date on which Mr. Hernandez states that he wishes Lexington Insurance Company to provide him with a defense to this action. Lexington Insurance Company agrees that it will pay the costs and expenses which are reasonably incurred by you in defense of Mr. Hernandez in the action, commencing as of, on and from the date that Mr. Hernandez states that he wishes Lexington Insurance Company to defend him in the action. Lexington Insurance Company will pay the reasonable attorneys' fees, costs and expenses up to the time that the action is brought to a conclusion, whether by judgment or otherwise, or until the time that it becomes clear that the policy does not provide coverage to Mr. Hernandez with respect to this matter.

So that Mr. Hernandez and Lexington Insurance Company can promptly reach an agreement as to what constitutes reasonable attorneys' fees incurred for the defense of Mr. Hernandez in the action, please forward to me, at your earliest possible convenience, the bills, statements and invoices you have submitted to Mr. Hernandez showing the services rendered and hourly rates charged by you in representing and defending him in the action. Upon my receipt of those papers, Lexington Insurance Company will review them, and will shortly thereafter contact you in order to reach an agreement regarding the reasonable hourly rates it will pay for the defense and representation of Mr. Hernandez in this case.

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Stephen Gillman, Esq.

March 12, 2014

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Under the terms of the policy, Mr. Hernandez has an obligation to cooperate with Lexington Insurance Company in the investigation, settlement or defense of Mr. Bradley's claim and the lawsuit he has filed. Having just been informed of Mr. Bradley's claim and the lawsuit, Lexington Insurance Company has no information or materials regarding either, and has begun its investigation. Part of its investigation includes the request for papers and information outlined in my letter to Mr. Bradley's attorney, a copy of which is enclosed. Pursuant to Mr. Hernandez' obligation and duty fully to cooperate with Lexington Insurance Company, I request that you, as Mr. Hernandez' attorney, also gather and forward to me all information and papers in your or Mr. Hernandez' possession, or to which you or he has access, of the types described and requested in my letter to Mr. Bradley's attorney.

Additionally, Lexington Insurance Company wishes to interview and obtain a statement from Mr. Hernandez concerning the incident alleged by Mr. Bradley and the facts and circumstances giving rise to it. The information possessed by Mr. Hernandez is important, not only to enable Lexington Insurance Company to investigate and evaluate Mr. Bradley's claim, but also to determine whether or not the policy issued by Lexington Insurance Company provides coverage to Mr. Hernandez with respect to Mr. Bradley's claims. Please let me know at your earliest possible convenience if Mr. Hernandez will agree to be interviewed and to provide a statement, so that we can arrange a mutual agreeable date and time for the interview and statement.

Lexington Insurance Company respectfully requests that you remind Mr. Hernandez of his obligation and duty fully to cooperate with it and that, if he does not cooperate with Lexington Insurance Company, that failure will provide Lexington Insurance Company with grounds to deny coverage under the terms and provisions of the policy.

Please let me know as soon as possible whether or not Mr. Hernandez requests that Lexington Insurance Company provide him with a defense to the action brought against him by Mr. Bradley, pursuant to the terms of this letter. Please also let me know at your earliest possible convenience several dates and times when Mr. Hernandez will be available to be interviewed by, and to provide a statement to, Lexington Insurance Company. Please also gather and forward to me all information and papers which pertain to Mr. Bradley's claim and lawsuit and which will assist Lexington Insurance Company in its investigation of that claim and lawsuit.

Neither the investigation by Lexington Insurance Company into Mr. Bradley's claim against Mr. Hernandez, nor any of the foregoing in any way constitute, nor should either be considered, a waiver or relinquishment by Lexington Insurance Company of any and all defenses, remedies, claims and rights available to it under the terms and provisions of the policy and under applicable law. Additionally, the foregoing in no way restricts or limits Lexington



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Stephen Gillman, Esq.

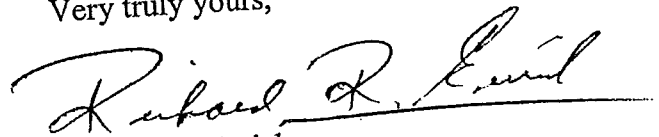
March 12, 2014

Page 8

Insurance Company from relying upon and asserting other facts and grounds that are, or may become, available to it.

If you have any questions concerning any of the preceding, please do not hesitate to contact me. I look forward to hearing from you in the near future and thank you for your and Mr. Hernandez' courtesy, cooperation and attention to this matter.

Very truly yours,



Richard R. Eurich

RRE/sm  
Enclosure

## MORRISON MAHONEY LLP

COUNSELLORS AT LAW

250 SUMMER STREET  
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LONDON

NEW HAMPSHIRE  
MANCHESTER  
NEW JERSEY  
PARSIPPANY  
NEW YORK  
NEW YORK  
RHODE ISLAND  
PROVIDENCE

April 25, 2014

**VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
COPY BY FIRST CLASS MAIL**

Stephen Gillman, Esq.  
Shutts & Bowen LLP  
201 South Biscayne Blvd.  
Suite 1500 Miami Center  
Miami, FL 33131

Re: Alexander S. Bradley  
v. Aaron Hernandez  
United States District Court  
Southern District of Florida Docket No.: 1:13-cv-22196  
Insured: Aaron Hernandez  
Insurer: Lexington Insurance Company  
Policy No.: 28392450 (11/15/2012-2013)  
Date of Alleged Incident: February 13, 2013  
Our File No.: 10055139

Dear Mr. Gillman:

I am enclosing for your review a copy of my March 12, 2014 letter to you. I sent the original of that letter to you by Certified Mail, Return Receipt Requested. I have received the Return Receipt from the post office; it reflects that you received the letter on March 18. I also sent a copy of the March 12 letter to you by regular mail. The post office has not returned that letter to me.

I have not heard or received anything from you since your receipt of my letter. I request, again, that you inform me whether or not your client, Mr. Hernandez, wishes Lexington Insurance Company to provide him with a defense to the legal action brought against him by Alexander S. Bradley in the above-captioned legal action. Although Lexington Insurance Company is agreeable to provide Mr. Hernandez with a defense, at its sole expense, it cannot do so until and unless Mr. Hernandez has informed it that he wishes it to defend him. Lexington

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Stephen Gillman, Esq.

April 25, 2014

Page 2

Insurance Company has received no communication from Mr. Hernandez, or from any attorney purporting to represent him, that he wishes Lexington Insurance Company to defend him, and I request that you let me know his decision in that regard.

As stated in my March 12 letter, should Mr. Hernandez request Lexington Insurance Company to defend him in the action, Lexington will do so, but subject to the reservation of rights set forth in that letter. As also stated in that letter, Lexington Insurance Company has only recently been informed of the incident allegedly involving Mr. Bradley, of Mr. Bradley's claim against Mr. Hernandez, and of the legal action filed by Mr. Bradley against Mr. Hernandez in June of 2013. Lexington Insurance Company has begun an investigation into the alleged incident. As part of its investigation, Lexington Insurance Company has requested, in my March 12, 2014 letter, that Mr. Hernandez, and you as his attorney, gather and forward to me all information and papers in your or Mr. Hernandez's possession, or to which you or he has access, of the types described and requested in my March 12, 2014 letter to Mr. Bradley's attorney, a copy of which I have previously provided you.

In this regard, please remind Mr. Hernandez that he has an obligation to cooperate with Lexington Insurance Company in the investigation of the alleged incident and; should he request that Lexington Insurance Company provide him a defense, in the defense of the claim and filed lawsuit. In addition to the information and papers which Lexington Insurance Company has requested you and Mr. Hernandez to supply, Lexington Insurance Company also wishes to interview and obtain a statement from Mr. Hernandez concerning the incident alleged by Mr. Bradley and the facts and circumstances giving rise to it. The information possessed by Mr. Hernandez is important, not only to enable Lexington Insurance Company to investigate and evaluate Mr. Bradley's claim, but also to determine whether or not the policy issued by Lexington Insurance Company to Mr. Hernandez provides coverage with respect to Mr. Bradley's claim. Please, therefore, let me know at your earliest possible convenience if Mr. Hernandez will agree to be interviewed and to provide a statement, so that we can arrange a mutually agreeable date and time for the interview and statement to take place.

Mr. Hernandez has an obligation and duty fully to cooperate with Lexington Insurance Company in its investigation of the incident, an obligation and duty imposed upon him by the policy and by law. If he continues to refuse to cooperate with Lexington Insurance Company, that failure will provide Lexington Insurance Company with grounds to deny coverage under the terms and provisions of the policy.

Please let me know as soon as possible whether or not Mr. Hernandez requests that Lexington Insurance Company provide him with a defense to the action brought against him by Mr. Bradley, pursuant to the terms and conditions set forth in my March 12, 2014 letter. Please

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Stephen Gillman, Esq.

April 25, 2014

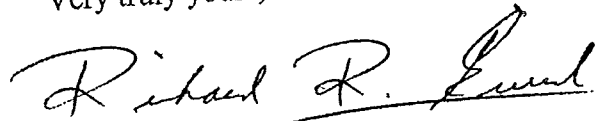
Page 3

also let me know at your earliest possible convenience several dates and times when, and the location where, Mr. Hernandez will be available to be interviewed by, and to provide a statement to, Lexington Insurance Company. Please also gather and forward to me all information and papers which pertain to Mr. Bradley's claim and lawsuit and which will assist Lexington Insurance Company in its investigation of the incident, the claim and the lawsuit.

Neither the investigation by Lexington Insurance Company into Mr. Bradley's claim against Mr. Hernandez, nor any of the foregoing in any way constitutes, nor should either be considered, a waiver or relinquishment by Lexington Insurance Company of any and all defenses, remedies, claims and rights available to it under the terms and provisions of the policy and under applicable law. Additionally, the foregoing in no way restricts or limits Lexington Insurance Company from relying upon and asserting other facts and grounds that are, or may become, available to it.

If you have any questions, please do not hesitate to contact me. I look forward to hearing from you in the near future.

Very truly yours,

  
Richard R. Burich

RRE/sm  
Enclosure

Exhibit F

# MORRISON MAHONEY LLP

COUNSELLORS AT LAW

250 SUMMER STREET  
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Richard R. Eurich  
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NEW HAMPSHIRE  
MANCHESTER  
NEW JERSEY  
PARSIPPANY  
NEW YORK  
NEW YORK  
RHODE ISLAND  
PROVIDENCE

June 20, 2014

**VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED  
COPY BY FIRST CLASS MAIL**

Stephen Gillman, Esq.  
Shutts & Bowen LLP  
201 South Biscayne Blvd.  
Suite 1500 Miami Center  
Miami, FL 33131

Re: Alexander S. Bradley  
v. Aaron Hernandez  
United States District Court  
Southern District of Florida Docket No.: 1:13-cv-22196  
Insured: Aaron Hernandez  
Insurer: Lexington Insurance Company  
Policy No.: 28392450 (11/15/2012-2013)  
Date of Alleged Incident: February 13, 2013  
Our File No.: 10055139

Dear Mr. Gillman:

I am enclosing for your review copies of my March 12 and April 25, 2014 letters to you. I sent the originals of both letters to you by Certified Mail, Return Receipt Requested. I have received the Return Receipts from the post office; they reflect that you received the letters, respectively, on March 18 and April 29, 2014. I also sent a copies of the letters to you by regular mail. The post office has not returned either of those letters to me.

I still have not heard or received anything from you. In light of your and Mr. Hernandez's continuing silence, Lexington Insurance Company must conclude that Mr. Hernandez is not requesting Lexington Insurance Company to provide him with a defense to the legal action brought against him by Alexander S. Bradley, and that Mr. Hernandez is not tendering his defense to Lexington Insurance Company. If these conclusions are incorrect, please inform me immediately.

MORRISON MAHONEY LLP

Stephen Gillman, Esq.

June 20, 2014

Page 2

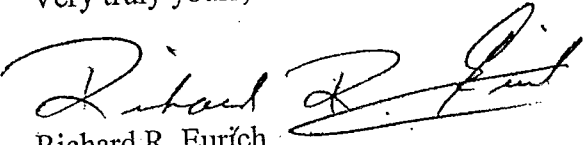
Additionally, Lexington Insurance Company's attempt to investigate the alleged incident of February 13, 2013, and the claims asserted against him by Mr. Bradley on account of that incident, has been frustrated by Mr. Hernandez's refusal and failure to provide Lexington Insurance Company with the information and papers described in my earlier letters to you. That investigation has also been frustrated by Mr. Hernandez's refusal to respond to Lexington Insurance Company's request to interview, and obtain a statement from, him concerning the incident alleged by Mr. Bradley and the facts and circumstances giving rise to it.

Under the terms of the policy of insurance issued to Mr. Hernandez, Mr. Hernandez has an obligation to cooperate with Lexington Insurance Company in its investigation of the alleged incident. This is an obligation imposed upon Mr. Hernandez not only by the policy, but also by applicable Massachusetts law. Mr. Hernandez's continuing refusal to cooperate with Lexington Insurance Company is prejudicing Lexington Insurance Company in its attempt to investigate this matter and, as a consequence, deprives Mr. Hernandez of any coverage under the terms and provisions of the policy. Please inform me immediately if Mr. Hernandez agrees to cooperate with Lexington Insurance Company and to provide the information, papers, interview, and statement described in my letters.

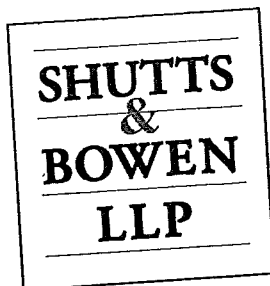
Neither the investigation by Lexington Insurance Company into Mr. Bradley's claim against Mr. Hernandez, nor any of the foregoing in any way constitutes, nor should either be considered, a waiver or relinquishment by Lexington Insurance Company of any and all defenses, remedies, claims and rights available to it under the terms and provisions of the policy and under applicable law. Additionally, the foregoing in no way restricts or limits Lexington Insurance Company from relying upon and asserting other facts and grounds that are, or may become, available to it.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

  
Richard R. Eurich

RRE/sm  
Enclosure



Founded 1910

E-MAIL ADDRESS:  
sgillman@shutts.com

STEPHEN B. GILLMAN  
PARTNER  
(305) 347-7311 Direct Telephone  
(305) 347-7835 Direct Facsimile

July 14, 2014

7/21/14VIA E-MAIL AND U.S. MAIL

Richard R. Eurich  
Morrison Mahoney LLP  
250 Summer Street  
Boston, Massachusetts 02210-1181

Re: **Alexander S. Bradley v. Aaron Hernandez**  
**USDC SD Fla. Case No.: 13-CIV-22196-WILLIAMS (the "Lawsuit")**  
**Insured: Aaron Hernandez**  
**Insurer: Lexington Insurance Company**  
**Policy No.: 28392450 (11/15/2012-2013)**  
**Date of Alleged Incident: February 13, 2013**  
**Your File No.: 10055139**  
**Our File No.: 38271.0001**

Dear Mr. Eurich:

This follows up on our telephone conference regarding the above-referenced matter. First, this will confirm that this firm is counsel of record for Aaron Hernandez ("Mr. Hernandez"). Thank you for your time and understanding of the complexities involved in this matter. As we discussed, given the pending matters, it is necessary for Mr. Hernandez to preserve and protect his constitutional privileges while, at the same time, meeting our common interest in the defense of the Lawsuit.

In our telephone conference, we discussed the need for a common interest agreement and protocols to accomplish the legal concerns of Lexington Insurance Company and Mr. Hernandez and a proposed agreement is attached for Lexington Insurance Company's consideration and approval. Next, you advised that, based on the information Lexington Insurance Company currently has, Lexington Insurance Company would likely agree to defend the claims against Mr. Hernandez in the Lawsuit under a reservation of rights and, in such case, Mr. Hernandez would be entitled to select attorney(s) of his choosing to defend the Lawsuit. As discussed, Mr. Hernandez will select me and my firm to continue the defense of the Lawsuit. Finally, we

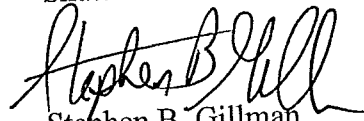
Richard R. Eurich  
July 14, 2014  
Page 2

discussed that Mr. Hernandez' cooperation obligations could be satisfied by communication between his counsel and Lexington Insurance Company's counsel under the Common Interest Agreement.

I look forward to your earliest response, confirming that Lexington Insurance Company agrees so that we may proceed. I am available to discuss further.

Best regards,

Shutts & Bowen LLP



Stephen B. Gillman

SBG/dc

MIADOCS 9485722 1



COMMON INTEREST AGREEMENT

This Common Interest Agreement ("CIA" or "Agreement") is entered into by and among the undersigned Counsel, acting for and on behalf of their respective clients Aaron Hernandez ("Mr. Hernandez") and his insurer Lexington Insurance Company ("Lexington" and together with Mr. Hernandez, "Parties" or "Clients"). Mr. Hernandez was named as defendant in Alexander S. Bradley v. Aaron Hernandez, No. 1:13-cv-22196, pending in the United States District Court for the Southern District of Florida (the "Litigation"). Plaintiff's allegations in the Litigation raise issues that may be covered by an insurance policy issued by Lexington and which may give rise to duties on the part of Lexington, including a duty to provide a defense to Mr. Hernandez, thereby giving rise to a mutuality of interest in the defense of the Litigation and in exchanging information relating to the claims asserted by Plaintiff and in defending against claims based on those claims (the "Common Issues"). The Common Issues shall not include any claims, actions, proceedings or suits that exist or may exist now or in the future by one Party against the other and entry into this CIA is without prejudice to any claims or defenses as against each other.

The Parties acknowledge and agree that they share certain common interests with respect to Plaintiff's claims and the defenses thereto and that those interests will be best served if they can exchange information and materials related to those interests subject to the continued protection of the attorney-client privilege, attorney work-product doctrine, community of interest and/or joint defense privilege, and/or any other applicable privileges or protections. Because the undersigned counsel and their respective clients wish to continue to pursue their separate but common interests and to avoid any suggestion of waiver of the confidentiality of privileged or protected communications or documents, the undersigned counsel agree as follows on behalf of themselves, their respective clients, and their respective clients' counsel:

1. For purposes of this CIA, the term "**Counsel**" means and includes outside and in-house counsel for the Parties as to any Common Issue, as well as agents, scientific and technical advisors, staff working on fact and legal issues, and any and all paralegals, law clerks, and all other persons employed by such counsel and any other persons expressly agreed to in writing by the Parties. Execution of this CIA by either outside or in-house counsel for a Party binds all in-house counsel and all outside counsel retained to provide legal services in connection with any Common Issue at any time during its pendency. Counsel have concluded that it is in each of their Client's individual and mutual best interests to share from time to time, either orally or in writing, information related to the Common Issues with some or all of Counsel. All such exchanged information related to the defense and prosecution of the Common Issues is included within the term "**Defense Materials**" used herein.

2. For purposes of this CIA, "**Defense Materials**" means and includes all documents, information, and communications exchanged or communicated among the Parties and their counsel in connection with the Litigation, including, without limitation, all drafts of pleadings, expert reports, or court papers; all oral statements and conversations among counsel for the Parties; documents such as memoranda of law and fact, interview reports, notes, factual summaries, histories, transcript digests, computer generated information, engineering and scientific analyses, risk analyses, and records and memoranda of experts, consultants, or investigators; and all other information; provided that the documents, information, or

communications at issue were exchanged or communicated among the Parties in connection with the Litigation. These Defense Materials may be labeled "Defense Materials – Subject to Common Interest Agreement," but failure to so mark these Defense Materials is not a waiver of protection and shall not exclude the Defense Materials from the scope of protection provided by this CIA. The Parties understand and agree that Defense Materials, to the extent they were or are privileged, are protected from disclosure to any third party (including Plaintiff), and the fact of communication or exchange of any Defense Materials (whether privileged or not) among the Parties is protected from disclosure to any third party (including Plaintiff). The Defense Materials and information derived therefrom shall be used solely to investigate or attempt to resolve the allegations in the Litigation, or to prepare, develop, and present defenses or claims in the Litigation. Defense Materials and information derived therefrom shall not be used by a Party for any other purpose without the permission of the Party or Parties that provided or prepared those particular Defense Materials. The Parties acknowledge and agree that Defense Materials, except as set forth in subsection (b) below (the "Use of Public or Independent Information" provision), may not be used by one Party against any other Party, either in litigation or for any other purpose.

(a) Some or all of the Defense Materials may be privileged from disclosure to adverse or other parties as a result of the attorney-client privilege, the work-product doctrine, constitutional privileges and protections, or other applicable privileges or protections. It is the desire, intention, and mutual understanding of the undersigned and of the Parties they represent (i) that the sharing of Defense Materials among one another is not intended to, and shall not, waive or diminish in any way the confidentiality of such Defense Materials or their continued protection under the attorney-client privilege, the work-product doctrine, constitutional privileges and protections, or any other applicable privileges or protections; and (ii) that all Defense Materials disclosed pursuant to this CIA that are entitled to protection under the attorney-client privilege, the work-product doctrine, constitutional privileges and protections, or other applicable privileges or protections, shall remain entitled to such protection under the joint-defense and common-interest doctrines, and shall be treated as confidential and may not be disclosed to persons other than those described in this Agreement without the consent of the providing Party in order to preserve the privileged and protected nature of the information. Documents or information that are otherwise not privileged shall not gain any privilege or immunity by virtue of disclosure as Defense Materials under this CIA; however, the fact of communication from one Counsel to any other Counsel of such Defense Materials shall be privileged pursuant to this CIA.

(b) The Parties may use any publicly available documents and information disclosed hereunder that was publicly available at the time of receipt or has by then become publicly available other than by breach of this Agreement for any purpose. Notwithstanding anything to the contrary in this CIA, Defense Materials shall not include any information that (i) is or subsequently becomes public without recipient's breach of any obligation owed to the disclosing Party; (ii) is discovered independently by the recipient (including through discovery processes in litigation) without a breach of this Agreement or another confidentiality agreement; (iii) became known to recipient prior to the disclosing Party's disclosure of such information to recipient pursuant to the terms of this Agreement; (iv) became known to recipient from a source other than the disclosing Party by means other than the breach of an obligation of confidentiality

owed to the disclosing Party; (v) is independently developed by recipient and does not incorporate Defense Materials provided by another Party; or (vi) it is agreed between recipient and the disclosing Party that the information may be disclosed outside of this Agreement. In the case of any of the above, if requested, recipient shall provide written notice and written records supporting such claim to the disclosing Party.

3. Counsel and the Parties also intend and understand that any disclosure of Defense Material pursuant to this CIA will not constitute a waiver of any other available privilege protection. The Parties also agree that this CIA shall not waive or modify the terms of any existing nondisclosure or confidentiality agreements between them, and that any existing nondisclosure or confidentiality agreements shall remain in full force and effect. The Parties and their Counsel agree that Defense Materials shared under this CIA shall continue to be held confidentially and subject to privilege even if adversity of interest may later be discerned or arise between or among the Parties, irrespective of any claim that the community of interest and/or joint defense privilege otherwise may become prospectively inoperative by virtue of such claimed adversity.

4. (a) If a Party inadvertently produces privileged or work product materials to another Party under this Agreement, such production shall not be deemed a waiver of the attorney-client privilege, the work-product doctrine, constitutional privileges and protections, or any other applicable privileges or protections, either as to the specific information or materials disclosed or as to any other information or materials relating thereto or on the same or related subject matter (and none of the Parties will assert such a waiver). In such circumstances, within five (5) business days of being notified of the inadvertent production by the producing Party, the receiving Party must return or confirm destruction of the privileged materials, and the Parties shall cooperate in good faith to restore the applicable privilege or protection with respect to that disclosed information or material, including retrieval or destruction of all copies, to the extent possible.

(b) Similarly, if a Party inadvertently produces Defense Materials to a person or an entity that is not a party to this CIA, in a manner that is not authorized by the terms of this CIA, such production shall not be deemed a waiver of the attorney-client privilege, the work-product doctrine, constitutional privileges and protections, or any other applicable privileges or protections, either as to the specific information or materials disclosed or as to any other information or materials relating thereto or on the same or related subject matter (and none of the Parties will assert such a waiver). In such circumstances, the inadvertently producing Party must immediately upon discovery of the inadvertent error notify all Parties and the receiving party of the inadvertent production of such materials and request the return or confirmed destruction of the privileged materials, and the Parties shall cooperate in good faith to restore the applicable privilege or protection with respect to that disclosed information or material, including retrieval or destruction of all copies, to the extent possible.

5. This CIA, its terms, the fact of its execution and all discussions between the Parties regarding it are subject to attorney-client and work-product privileges, and the Parties agree that such privileges shall be asserted in response to any subpoena for the production of the CIA or in response to any inquiry (via written discovery, deposition or otherwise) as to its terms, the fact of its execution or discussions relating to it.

6. Any Party who produces or provides its own privileged document or communication to other Parties retains the right to waive any and all privileges applicable to such document or communication. Where the privilege applicable to any documents or communication is held jointly by the Parties who have received such documents or communications, the privilege may be waived only by a unanimous decision of all such Parties, and all such documents or communications shall remain privileged unless and until such unanimous decision is made.

7. Any shared Defense Materials are to be used by each person or entity receiving them solely in connection with the Common Issues. Neither the Defense Materials nor the information contained therein may be used by any person or entity receiving them for any other purpose whatsoever, unless such information is obtained through legal and independent means, except as provided in Paragraph 13 below.

8. Nothing in this CIA shall obligate any signatory to share or communicate any Defense Materials or independently obtained or created materials with any other signatory hereto.

9. If any person or entity requests or demands access to Defense Materials provided pursuant to this CIA, by subpoena or otherwise, Counsel for the Party receiving the demand or subpoena shall immediately notify Counsel for the Party who supplied those Materials and discuss an appropriate response. It shall be the burden of the Party who supplied the requested materials to take all steps necessary or appropriate regarding the assertion of all applicable rights and privileges with regard to said Defense Materials in the appropriate forums. Counsel for the receiving Party shall cooperate fully and shall take all steps necessary or appropriate to permit the assertion of such rights and privileges in any proceeding relating to the disclosure sought.

10. Subject to the provisions of this Agreement, the Parties are free to use and to make derivative use of any Defense Materials, including information that they obtained from any other Party who may subsequently withdraw from this CIA, in preparation for and in furtherance of the legal issues and the attorney-client engagements related to the Common Issues. The Parties agree that such Defense Materials, unless separately and independently obtained from authorized sources, may not be used by one Party against any other Party in any existing or future litigation, including this Litigation, or for any other purpose and, to the extent specifically created as part of the community of interest efforts, are not discoverable in any such litigation. The Parties recognize that such Defense Materials may be relevant to subsequent actions by or between the Parties or relating to one of the Parties; however, the Parties agree that disclosure under this CIA of such Defense Materials does not, by itself, make those Defense Materials discoverable in such subsequent actions.

11. Upon the final disposition of the Common Issues, all Defense Materials relating to that claim, action, proceeding, or suit that were received shall be promptly destroyed or returned to the Party from which they were received if requested by the producing Party. Notwithstanding the foregoing, the Party in receipt of such Defense Materials may retain electronic copies created pursuant to standard archival and back-up procedures. Neither this CIA nor the sharing of Defense Materials pursuant to this CIA shall be grounds for seeking the disqualification, now or in the future, of any Counsel's firm or their experts.

12. Nothing in this CIA shall be construed to affect the separate and independent representation of each Party by its respective Counsel. Notwithstanding the obligations of this CIA, the Parties recognize that their interests may become directly adverse, that each Party's lawyer must represent his client and no other, and that for such reasons, this CIA does not create an attorney-client relationship or any fiduciary duty between any lawyer and any client other than the client for whom the lawyer and his or her firm appears in this case. Accordingly, after receiving the advice of its own counsel, each Party consents to such adverse representation that may arise solely due to this CIA, and knowingly and intelligently waives any conflict of interest that may arise solely on account of this CIA, except as to its own attorney. The fact that any Counsel or expert has had access to or used Defense Materials consistent with the terms of this CIA, or has acted for its respective Party, shall not in any way preclude that Counsel (or Counsel's firm) or expert from representing any interest that may be construed to be adverse to any other Party to this CIA in the Litigation, or in any other present or future legal matters, or used as a basis for seeking to disqualify that Counsel (or Counsel's firm) or expert from representing any client in any other present or future legal matter, or from examining or cross examining any representative of any Party who testifies in the Litigation or in any other present or future legal matter. By entering into this CIA, each Party hereby waives any right he or it may otherwise have to seek the disqualification of Counsel (or Counsel's firm) or expert to another Party in this or any other matter based upon activities undertaken consistent with the terms of this CIA. Experts and consultants retained by any or all of the Parties shall be bound and comply with the obligations of the Parties under this Agreement. Notwithstanding the foregoing, except for indemnity and contribution claims, no attorney representing a Party in this matter who received Defense Materials under this Agreement may thereafter bring a claim or cause of action on the Patents-in-Suit against any of the Parties to this Agreement. Nothing in this paragraph shall be construed to waive or limit a Party's rights or remedies relating to the use of Defense Materials, by any party, person, or expert, in a manner inconsistent with this CIA.

13. Nothing contained in this CIA is intended to be, or shall be deemed to be: (a) an admission of any liability or obligation on the part of any Party to this CIA, in connection with the Common Issues or any other matter; (b) a waiver of any claim or defense available to any Party to this CIA against another Party to this CIA as a result of any other dispute that exists or may arise between or involving them; or (c) an act of forbearance, acquiescence or forgiveness in respect to any other such dispute between or involving them.

14. Subject to any other agreements between the Parties, this CIA shall not in any way preclude any Party from exercising its freedom to deal separately with Plaintiff, including without limitation, settling a claim or defense and/or litigating its position in a court of law, provided, however that the Parties shall at all times comply with the obligations set forth in this CIA to maintain the privileged and/or confidential nature of any Defense Materials that a Party receives pursuant to this CIA. As such, the privilege and immunity that exists at common law and by statute and constitutional right and is confirmed in this CIA shall not be waived and shall be deemed to continue in full force and effect. Nothing in this CIA shall be construed so as to require any Party either to consult with, or to seek the consent of, any other Party to this CIA with respect to any such separate action taken as to Plaintiff.

15. Except as may be created by any separate agreement, this CIA shall not create any agency or similar relationship among the Parties. No Party shall have the authority to waive any applicable privilege or doctrine on behalf of any other Party, nor shall any waiver of an applicable privilege or doctrine by the conduct of any Party be construed to apply to any other Party and nothing in this CIA shall obligate any Party in any way to assist another Party. Each Party expressly reserves the right to make its own independent judgments in all matters and on all issues and to conduct its own independent defense.

16. No rights or obligations created by this CIA are intended to amend, modify, supplement or replace any legal or contractual obligation or authority created by any other agreement entered into at any time between or among any of the Parties or any affiliated entity of any Party.

17. This CIA constitutes the entire agreement of the Parties regarding the subject matter herein. The provisions of this CIA may be modified only by written agreement of Counsel for all affected Parties.

18. The respective signatories may execute this CIA in separate counterparts.

19. This CIA shall be governed by and construed and enforced in accordance with the laws of the State of Massachusetts, without reference to principles of choice or conflict of laws, except that applicable United States federal law governing attorney-client communications, community of interest privilege, joint defense privilege, common interest privilege, work product protection, or any other applicable privilege or immunity shall control in interpreting the scope of protection afforded to the Parties by this CIA to the extent broader than those available under the laws of the State of Massachusetts.

20. The existence and terms of this CIA are confidential and shall not be disclosed to any person or entity other than the Parties hereto and their Counsel without the prior written consent of each of the Parties.

21. The Parties expressly acknowledge and agree that no adequate remedy at law is available for breach of this CIA and that, in addition to any other remedies available, a disclosing Party may be entitled to seek injunctive relief against a threatened or continued violation of this CIA.

22. The provisions contained in each paragraph and sub-paragraph of this CIA shall be enforceable independently of each of the others, and if a provision of this CIA is, or becomes, illegal, invalid or deemed unenforceable by any court or administrative body of competent jurisdiction it shall not affect the legality, validity or enforceability of any other provisions of this CIA. If any of these provisions is held to be illegal, invalid or unenforceable but would be legal, valid or enforceable if some part of the provision were deleted, the provision in question will apply with such modification as may be necessary to make it legal, valid or enforceable.

23. Each Party, through its counsel, commits and represents to the other Parties that it has full and final authority to execute this Agreement, and that no further action of the Party, its management, board of directors, or shareholders is necessary to make this Agreement a valid and

binding obligation of the Party. In addition, the respective rights and obligations provided in this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, including their parent corporations, counsel, officers, directors, employees, consultants, experts, and their respective legal successors, and assignees. No Party may assign any of the rights contained herein without the written consent of all other Parties to the Agreement.

24. All notices provided for in this Agreement shall be in writing and shall be deemed duly given on the date on which same is emailed to all Parties to this Agreement at the email address provided by each Party ("Notice Address"). Any Party may change its Notice Address by notice to the other Party pursuant to this Paragraph.

25. Should this Agreement be terminated, the terms of this Agreement shall survive as to all information that had been disclosed, exchanged, and/or protected under this Agreement.

26. The language used in this Agreement shall be deemed language chosen and drafted by all Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

27. Each Party acknowledges that it has been represented by its own independent legal counsel in connection with the negotiation, drafting, and execution of this Agreement. Each Party represents that it believes that the benefits of being a member of this Agreement outweigh any of the limitations imposed by this Agreement.

**ONLY SIGNATURES FOLLOW**

\* \* \*

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RICHARD R. EURLICH  
MORRISON MAHONEY LLP

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Stephen B. Gillman  
Shutts & Bowen, LLP

ATTORNEYS FOR LEXINGTON INSURANCE  
COMPANY.

Attorneys For Aaron Hernandez



Exhibit H

# MORRISON MAHONEY LLP

COUNSELLORS AT LAW

250 SUMMER STREET  
BOSTON, MASSACHUSETTS 02210-1181  
617-439-7500

Richard R. Eurich  
Direct Dial: (617) 439-7508  
Direct Fax: (617) 342-4932  
reurich@morrisonmahoney.com

|               |               |
|---------------|---------------|
| MASSACHUSETTS | NEW HAMPSHIRE |
| BOSTON        | MANCHESTER    |
| FALL RIVER    | NEW JERSEY    |
| SPRINGFIELD   | PARSIPPANY    |
| WORCESTER     | NEW YORK      |
| CONNECTICUT   | NEW YORK      |
| HARTFORD      |               |
| ENGLAND       | RHODE ISLAND  |
| LONDON        | PROVIDENCE    |

August 18, 2014

**VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
COPY BY FIRST CLASS MAIL**

Stephen Gillman, Esq.  
Shutts & Bowen LLP  
201 South Biscayne Boulevard  
Suite 1500 Miami Center  
Miami, FL 33131

Re: Alexander S. Bradley  
Vs. Aaron Hernandez  
United States District Court  
Southern District of Florida Docket No. 1:13-cv-22196  
Insured: Aaron Hernandez  
Insurer: Lexington Insurance Company  
Policy No.: 28392450 (11/15/2012-2013)  
Date of Alleged Incident: February 13, 2013  
Your File No.: 38271.0001  
Our File No.: 10055139

Dear Mr. Gillman:

This will acknowledge my receipt, on July 21, of your July 14, 2014 letter and its enclosure, a proposed "Common Interest Agreement." I must, respectfully, disagree with several of the statements in that letter purporting to describe the contents of our June 30, 2014 telephone conversation. I must also inform you that Lexington Insurance Company does not agree to the "Common Interest Agreement" you propose. Nonetheless, Lexington Insurance Company understands that, by your letter, its insured, Aaron Hernandez, is requesting Lexington Insurance Company to provide him with a defense to the legal action brought against him by Alexander S. Bradley, and that Mr. Hernandez is tendering his defense to Lexington Insurance Company.

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In the Complaint filed against Mr. Hernandez, Mr. Bradley alleges that, on February 13, 2013, he and Mr. Hernandez, with a group of other people, went to spend the evening at Tootsie's, a strip club located in Miami, Florida; that, while at the club, Mr. Bradley and Mr. Hernandez had an argument; that, thereafter, Mr. Bradley and Mr. Hernandez, and two other persons, were driving from Miami towards Palm Beach, Florida; that Mr. Hernandez had a gun in his possession; and that the gun discharged.

Mr. Bradley's Complaint contains two claims for relief. The first claim is for negligence. It alleges that Mr. Hernandez "caused the gun to go off while aiming it at the plaintiff," and that he was negligent and grossly negligent in causing Mr. Bradley to be shot, in failing to use the gun in a proper manner, in possessing a gun which he was not legally licensed to have, in failing to be properly trained in the use of firearms, and in otherwise acting in a reckless, careless and negligent manner.

The second claim for relief alleges an intentional tort, specifically alleging that Mr. Hernandez' "action in having the gun discharge while aimed at the plaintiff were deliberate and with the intent by [Mr. Hernandez] to cause harm to plaintiff."

Mr. Bradley alleges that he is entitled to recover damages, both actual and punitive damages, for the acts and conduct of Mr. Hernandez.

Lexington Insurance Company issued a homeowners' policy to Mr. Hernandez which provides coverage, pursuant to its terms and provisions, to Mr. Hernandez in certain situations. The liability limit of coverage in the policy is \$500,000 per occurrence. Based upon its review of the allegations in the Complaint, and based upon its review of the terms and provisions of the policy, Lexington is agreeable to provide Mr. Hernandez with a defense to the Complaint, that defense to be provided as of, on and from July 21, 2014, the date I received your letter. However, Lexington must inform you and Mr. Hernandez that the defense which it is willing to provide must be provided under a full and complete reservation of rights because of various coverage issues and concerns raised by the allegations in the Complaint. There is a distinct possibility that the policy will not provide coverage to Mr. Hernandez for all or a part of the claims, events and damages asserted against him.

The reasons for the reservation of rights are based upon, but not limited to, the following alternative grounds:

1. The policy provides coverage for suits brought against an insured for damages because of bodily injury caused by an occurrence to which the coverage provided by the policy applies. Mr. Bradley's Complaint alleges that Mr. Hernandez aimed a gun at the plaintiff and caused the gun to go off. Additionally, the Complaint

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alleges that Mr. Hernandez' actions "were deliberate and with the intent by [Mr. Hernandez] to cause harm to plaintiff." Those allegations and claims, if proved, do not allege or involve an occurrence as that term is defined by the policy. The policy defines the term "occurrence" to mean "an accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results, during the policy period, in: (a) 'Bodily injury'." The allegations and claims in the Complaint, if proved, do not appear to allege or involve bodily injury caused by an accident.

2. The nature and type of the facts and events, and the injuries and damages, alleged in the Complaint, if proved, are such as might have been expected or intended by Mr. Hernandez. The policy may not provide coverage for such claims and allegations. Exclusion E(1) of the policy, as amended by the policy's SPECIAL PROVISIONS endorsement number LEX 01 09 04 11, states that the coverage afforded by the policy does not apply to bodily injury:

... which is reasonably expected or intended from the standpoint of "insured" even if the resulting "bodily injury" ....:

- a. Is of a different kind, quality or degree than initially expected or intended; or
- b. Is sustained by a different person, ... than initially expected or intended.

The exclusion further states that the "[t]he reasonable person standard applies even if the 'insured' lacked the mental capacity to formulate an intent or expectation."

3. The Complaint alleges that, while Mr. Hernandez and the plaintiff were in a car driving from Miami towards Palm Beach, Florida, Mr. Hernandez shot Mr. Bradley. The policy may not provide coverage for such claims and allegations. Exclusion A(1) states that the coverage provided by the policy does not apply to any "motor vehicle liability" if, at the time and place of an "occurrence", the motor vehicle is registered for use on public roads. The policy defines the term "motor vehicle liability" to mean "liability for 'bodily injury' ... arising out of the ... [m]aintenance, occupancy, operation, use, loading or unloading of such vehicle or craft by any person."

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4. In the Complaint, the plaintiff alleges that he is entitled to recover punitive damages from Mr. Hernandez. The policy does not provide coverage, or pay, for an award of punitive damages. Exclusion E(9) of the policy, appearing in the policy's SPECIAL PROVISIONS endorsement number LEX 01 09 04 11, states that the coverage provided by the policy does not apply to "punitive or exemplary damages alleged in any claim or suit." Additionally, the exclusion states that Lexington Insurance Company does not "have any obligation to pay any costs, interests, or damages attributable to such punitive or exemplary damages."
5. The manifest design of a homeowners' policy, such as the one issued to Mr. Hernandez by Lexington Insurance Company, is to protect homeowners from risks associated with the home and activities related to the home. The allegations and claims in the Complaint, if proved, and the injuries and damages alleged in the Complaint, are not associated with or related to the home of Mr. Hernandez.
6. Intentional acts and conduct by Mr. Hernandez are alleged in the Complaint. There is no coverage in the policy for such intentional acts and conduct.
7. The Complaint alleges unlawful and illegal acts and conduct by Mr. Hernandez. Such acts and conduct are not covered by the policy.
8. The Complaint alleges unlawful and illegal acts and conduct by Mr. Hernandez. Public policy prohibits providing coverage to such acts and conduct.
9. The Complaint alleges that the incident occurred on February 13, 2013. The action was filed on June 19, 2013, and you filed your appearance on behalf of Mr. Hernandez on July 18, 2013. Mr. Hernandez did not inform Lexington Insurance Company of the incident, of the commencement of the litigation, or of the service of suit papers on him. There is, thus, a possibility that he has failed to comply with the terms and conditions of the policy. Paragraph C ("Duties After 'Occurrence'") of SECTION II – CONDITIONS of the policy states that:

In case of an "occurrence", you or another "insured" will perform the following duties that apply. We have no duty to provide coverage under this policy if your failure to comply with the following duties is prejudicial to us. You will help us by seeing that these duties are performed:

1. Give written notice to us or our agent as soon as is practical, which sets forth:

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- a. The identity of the policy and the "named insured" shown in the Declarations;
  - b. Reasonably available information on the time, place and circumstances of the "occurrence"; and
  - c. Names and addresses of any claimants and witnesses;
- ...
3. Promptly forward to us every notice, demand, summons or other process relating to the "occurrence"

The policy may not provide coverage to Mr. Hernandez if he failed to comply with these provisions and if, as a result of that failure, Lexington Insurance Company has been prejudiced.

10. As mentioned earlier, the liability limit of coverage in the policy is \$500,000 per occurrence. Based upon the injuries alleged by Mr. Bradley, should he be found entitled to recover from Mr. Hernandez, it is more likely than not that the judgment against Mr. Hernandez will be in excess of the \$500,000 liability limit in the policy. Consequently, assuming that the policy provides coverage to Mr. Hernandez, Mr. Hernandez will be liable for whatever amount exceeds the \$500,000 policy limit.

In light of these alternative, independent reasons, Lexington Insurance Company must reserve the right to disclaim any and/or all liability under the policy should investigation, discovery procedures, or the ultimate trial result show that the coverage provided by the policy is inapplicable to all or a part of the claims asserted against him. Under this reservation of rights, Lexington Insurance Company is agreeable to provide a defense to Mr. Hernandez as of, on and from July 21, 2014, up to the time that the Complaint is brought to a conclusion, whether by judgment or otherwise, or until the time that it becomes clear that the policy does not provide coverage to Mr. Hernandez with respect to this matter.

In light of the reservation of rights under which Lexington Insurance Company is agreeable to provide a defense to Mr. Hernandez, Mr. Hernandez may select an attorney of his choosing to defend him. Your July 14 letter states that Mr. Hernandez selects you and your firm to continue to represent and defend him.

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Lexington Insurance Company agrees that it will pay reasonable attorneys' fees incurred by you and your firm in defending Mr. Hernandez, commencing as of, on and from July 21, 2014. Lexington Insurance Company also agrees that it will pay the costs and expenses which are reasonably incurred by you and your firm in defense of Mr. Hernandez in the action, commencing as of, on and from July 21, 2014. Lexington Insurance Company will pay the reasonable attorneys' fees, costs and expenses up to the time that the action is brought to a conclusion, whether by judgment or otherwise, or until the time that it becomes clear that the policy does not provide coverage to Mr. Hernandez with respect to this matter.

During our June 30 telephone conversation, you stated that your hourly rate is \$520. Lexington Insurance Company does not agree that either the facts and circumstances of this case or the law of Massachusetts which governs the interpretation and application of the policy compel or warrant the conclusion that an hourly rate of \$520 constitutes a reasonable fee. Lexington Insurance Company believes that, under Massachusetts law, a reasonable hourly fee for defense of the claims asserted against Mr. Hernandez would fall in the range of \$200 to \$250. Lexington Insurance Company is prepared and willing to agree that, in this case, a reasonable hourly fee for defending Mr. Hernandez is \$250.

Lexington is prepared to consider the possibility of reaching an agreement with you and Mr. Hernandez regarding the hourly rate which you will charge, and it will agree to pay, for defending Mr. Hernandez. Please contact me so that we can discuss whether or not it is possible to reach such an agreement. To assist in that discussion, please forward to me, at your earliest possible convenience, the bills, statements and invoices you have submitted to Mr. Hernandez showing the services rendered and hourly rates charged by you in representing and defending him in the action to date. Lexington cannot agree, however, to the \$520 hourly rate you propose.

Going forward, Lexington Insurance Company will require that your and your firm's statements for legal services rendered, commencing on July 21, 2014, be submitted on a quarterly basis and that, when they are submitted, they contain the following information: (1) the date each service is rendered; (2) the identity of the individual performing that service; (3) the hourly rate charged by that individual; (4) the time invested by that individual in performing the service described; and (5) a description of the service rendered by that individual on that date. The statements must fully describe each service rendered by a particular individual, and the time spent by the individual in performing that particular service. When an individual performs more than one service on a particular day, it is necessary that the individual identify each separate service, and the time spent in rendering that particular service.

The statements, when submitted by your firm, should be sent to me, as attorney for Lexington Insurance Company. Lexington will review the statements submitted by your firm, in order to ensure that they comply with the requirements set forth in this letter and to determine the

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appropriate and reasonable fees, costs and expenses reasonably incurred by you and your firm in the defense of Mr. Hernandez in this action.

Going forward, Lexington also will require reports from you, reporting on all developments in the legal action, and on the impact those developments have on both the liability and exposure aspects of this case. In light of the scheduling order issued by the Court in the action, and in light of Mr. Hernandez' recent tender of his defense to Lexington, it is imperative that, at your earliest possible convenience, you send to me a complete and detailed analysis of the liability and damages aspects of the claims asserted by Mr. Bradley against Mr. Hernandez.

In addition to this analysis, please immediately forward to me, for Lexington's review, copies of all papers, documents and reports filed, received, obtained or exchanged in this action. Additionally, going forward, please forward to me copies of all pleadings and papers which have been, or will be, filed or served in the action; documents and materials produced by any of the parties in the action; copies of the transcripts of any depositions taken, or which will be taken, in the action; all legal research memoranda you or your firm have prepared in conjunction with the action; any investigative materials or documents prepared, or received, by you and your firm during the course of your defense and representation of Mr. Hernandez; and any summaries or analyses of deposition transcripts or of any other pleadings and papers.

Please also inform me whether you and Mr. Hernandez have considered, selected or identified a potential expert witness to testify on his behalf. I note that the Court's scheduling order specifies that the parties are to disclose experts by November 21, 2014, rebuttal experts by December 21, 2014, and to complete all non-party discovery, including expert discovery, by January 9, 2015. Please forward to me any reports you have received from any experts, as well as copies of the curriculum vitae of each expert.

Lexington Insurance Company must also be kept informed of any settlement discussions or negotiations which take place. Please advise me immediately of the contents of any such settlement discussions or negotiations. Also, please note that neither Mr. Hernandez, nor you nor your firm has any power or authority to commit Lexington Insurance Company to the payment of any monies in settlement of the action brought against Mr. Hernandez without the express prior consent and agreement of Lexington. Paragraph 6 of C ("Duties After 'Occurrence'") of SECTION - II CONDITIONS of the policy states that "No 'insured' shall, except at such 'insured's' own cost, voluntarily make payment, assume obligation or incur expense ...".

If you have any questions concerning any of these requirements, please do not hesitate to contact me. I look forward to receiving the requested reports, analyses, materials and information described in this letter from you as soon as possible, so that Lexington Insurance Company can be fully apprised of the status and liability and exposure aspects of this matter.

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In prior letters and telephone conversations, I have informed you that, under the terms of the policy, Mr. Hernandez has an obligation to cooperate with Lexington Insurance Company in the investigation, settlement and defense of Mr. Bradley's claim and the lawsuit he has filed. Specifically, Paragraph C ("Duties After 'Occurrence'") of SECTION II - CONDITIONS states that:

In case of an "occurrence," you...will perform the following duties that apply. We have no duty to provide coverage under this policy if your failure to comply with the following duties is prejudicial to us. You will help us by seeing that these duties are performed:

....

2. Cooperate with us in the investigation, settlement or defense of any claim or suit;

...

4. At our request, help us:

....

- b. To enforce any right of contribution or indemnity against any person or organization who may be liable to an "insured";
- c. With the conduct of suits and attend hearings and trials; and
- d. To secure and give evidence and obtain the attendance of witnesses.

This contractual duty of Mr. Hernandez to cooperate fully with Lexington Insurance Company is recognized and enforced under Massachusetts law. MetLife Auto & Home v. Cunningham, 59 Mass. App. Ct. 583, 586-588, 590-592 (2003), review denied 440 Mass. 1110 (2003), and cases and authorities cited. Additionally, the duty of Mr. Hernandez to cooperate with Lexington includes not only the obligation to cooperate and provide information about the incident giving rise to the lawsuit, "particularly when that information [is] peculiarly within his knowledge," Id., at 587-588, but also to cooperate and "provide accurate information bearing on [the presence or absence of] coverage." Id., at 589, and cases cited. See also Lorenzo-Martinez v. Safety Ins. Co., 58 Mass. App. Ct. 359, 364 (2003) (where information material to a claim investigation is "primarily or exclusively within the possession of the insured," cooperation



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provision requiring examination under oath is particularly important for obtaining information about a claim); Rymsha v. Trust Ins. Co., 51 Mass. App. Ct. 414, 418 (2001).

On behalf of Mr. Hernandez, you have asserted his Fifth Amendment rights under the United States Constitution. But Massachusetts cases are clear that those rights do not permit an insured to ignore, evade or postpone his contractual obligation to cooperate with his insurer. Mello v. Hingham Mut. Fire Ins. Co., 421 Mass 333 (1995) (assertion of Fifth Amendment rights does not excuse an insured's compliance with, or permit an insured to ignore, his contractual obligation to cooperate). Cunningham, *supra*, 59 Mass. App. Ct. at 587-588. This is simply because "it is not by the Commonwealth [or by the United States] or by [the insurer] that [the insured] 'is compelled to...furnish evidence against himself,' but by his own contractual undertaking." Mello, *supra*, 421 Mass. at 340. Therefore, Mr. Hernandez' full compliance with his contractual obligation to cooperate is a condition precedent to any coverage under the policy. Hanover Ins. Co. v. Cape Cod Custom Home Theater, Inc., 72 Mass. App. Ct. 331, 335-337 (2008), and cases cited; Mello, *supra*; Rymsha, *supra*.

Lexington Insurance Company did not know about the February 13, 2013 incident, or about Mr. Bradley's lawsuit against Mr. Hernandez, until more than a year after the incident. It was not informed by Mr. Hernandez, but, rather, by Mr. Bradley's attorney in a letter dated February 19, 2014. Lexington Insurance Company still has no information or materials regarding the incident.

Pursuant to Mr. Hernandez' obligation and duty fully to cooperate with Lexington Insurance Company, I have requested that you, as Mr. Hernandez' attorney, gather and forward to me all information and papers in your or Mr. Hernandez' possession, or to which you or he has access, which have any pertinence or bearing on the incident, on the claims asserted by Mr. Bradley, on the actions and conduct of Mr. Bradley, and on the actions and conduct of Mr. Hernandez. I have also specifically requested that you, as Mr. Hernandez' attorney, provide me with all information and papers of the types described and requested in my March 10, 2014 letter to Mr. Bradley's attorney. To date I have received nothing. On behalf of Lexington Insurance Company, I again demand that, pursuant to Mr. Hernandez' contractual duty of cooperation, these papers and information be immediately sent to me.

Additionally, as I have previously informed you, Lexington Insurance Company wishes to interview and obtain a statement from Mr. Hernandez concerning the incident alleged by Mr. Bradley and the facts and circumstances giving rise to it. The information possessed by Mr. Hernandez is important, not only to enable Lexington Insurance Company to investigate and evaluate Mr. Bradley's claim, but also to determine whether or not the policy issued by Lexington Insurance Company provides coverage to Mr. Hernandez with respect to Mr. Bradley's claims. I again demand that, pursuant to Mr. Hernandez' contractual duty to

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cooperate, you let me know if he will agree to be interviewed by, and to provide a statement to, Lexington. We can then arrange a mutually agreeable date and time for the interview and statement.

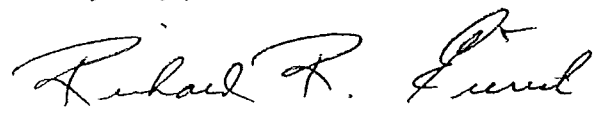
Please remind Mr. Hernandez of his obligation and duty fully to cooperate with Lexington and that, if he does not, that failure will result in Lexington denying coverage under the terms and provisions of the policy.

Please contact me so that we can discuss whether an agreement is possible between Lexington Insurance Company and you and Mr. Hernandez regarding the hourly rate you will charge, and Lexington will agree to pay, for defending Mr. Hernandez. Please also send to me all information and papers which pertain to or have any bearing on Mr. Bradley's claim and lawsuit against Mr. Hernandez, and which will assist Lexington Insurance Company in its investigation of this claim and lawsuit. Additionally, send me all other reports, papers, bills, statements, invoices, pleadings, documents and information described in this letter. Finally, please also let me know at your earliest possible convenience several dates and times when Mr. Hernandez, pursuant to his contractual obligation to cooperate, will be available to be interviewed by, and to provide a statement to, Lexington Insurance Company.

Neither the investigation by Lexington Insurance Company into Mr. Bradley's claim against Mr. Hernandez, nor Lexington Insurance Company's defense of Mr. Hernandez under the reservation of rights set forth in this letter, nor any of the foregoing, in any way constitute, nor should be considered, a waiver or relinquishment by Lexington Insurance Company of any and all defenses, remedies, claims and rights available to it under the terms and provisions of the policy and under applicable law. Additionally, the foregoing in no way restricts or limits Lexington Insurance Company from relying upon and asserting other facts and grounds that are, or may become, available to it.

If you have any questions concerning any of the preceding, please do not hesitate to contact me. I look forward to hearing from you in the near future and thank you for your and Mr. Hernandez' courtesy, cooperation and attention to this matter.

Very truly yours,

  
Richard R. Eurich

RRE/alk