IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CERTAIN UNDERWRITERS AT LLOYD'S LONDON, Petitioners, v. TRANSPORT INSURANCE COMPANY, Respondent.	Civil Action No.: 1:15-CV-12313 JUNE 11, 2015

PETITION FOR AN ORDER CONFIRMING
ARBITRATION AWARD AND ENTERING JUDGMENT

Petitioners, Certain Underwriters at Lloyd's of London ("Underwriters") respectfully petition this Court for an Order: (i) confirming an arbitration award pursuant to Section 9 of the Federal Arbitration Act, 9 U.S.C. §1 *et seq.* ("FAA") and, more specifically, Chapter 2 of the FAA, 9 U.S.C. §§ 201-208 providing for the enforcement of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "Convention");[1] and (ii) entering judgment in accordance with the confirmed award pursuant to 9 U.S.C. §§ 13, 207. As set forth below and in Underwriters' contemporaneously filed Memorandum of Law, the final arbitration award concerns insurance coverage litigation between Transport Insurance Company ("Transport") and its insured, a chemical manufacturer known as Vulcan Materials Company ("Vulcan"). Under these circumstances, there is a heightened need for this Court to confirm and enter judgment in connection with the final arbitration award.

[1] Chapter 2 of the Federal Arbitration Act is entitled the "Convention on Recognition of Foreign Arbitral Awards" and courts often refer to it as the "Convention." For the sake of clarity, Underwriters refer to Chapter 2 of the Federal Arbitration Act as "Chapter 2 of the FAA."

The Parties

1. Underwriters are a collection of insurance syndicates that were organized under the laws of the United Kingdom and subscribed to the reinsurance contracts at issue in the arbitration. Each of the syndicates is comprised of individuals who reside primarily in the United Kingdom and who engaged in the business of extending reinsurance coverage to certain risks that were presented for their consideration through the Lloyd's marketplace located in London, England.

2. Upon information and belief, Transport Insurance Company is a corporation organized under the laws of Ohio and Transport is licensed to perform the business of insurance in Massachusetts. Transport's principal place of business is currently identified with various state insurance commissioners as being located in Philadelphia, Pennsylvania. At the time that Transport issued the reinsurance billings that were in dispute, Transport's principal place of business was located in Boston, Massachusetts.

Jurisdiction and Venue

3. This Court has original jurisdiction over this matter pursuant to 9 U.S.C. § 203, because the underlying arbitration involved a commercial dispute that was not entirely between citizens of the United States. Alternatively, the Court has jurisdiction pursuant to 9 U.S.C. § 9 and 28 U.S.C. § 1332(a)(2) in that Underwriters are citizens of a foreign state and Transport is a corporate citizen of the United States and the amount in controversy (exclusive of interests and costs) exceeds $75,000.

4. The Court has jurisdiction over Transport pursuant to Massachusetts General Laws ch. 223A, § 3 and venue is proper in this District under 9 U.S.C. § 204 and 28 U.S.C § 1391(b)(2). This dispute arises out of Transport's transacting business in this Commonwealth in

that Transport's failed to perform its duties properly under a contract between the parties including, among other things, Transport performed the disputed allocation and issued the disputed billings from what was then its principal place of business in Boston, Massachusetts.

The Reinsurance Contracts

5. The commercial dispute between Underwriters and Transport arose in connection with the following reinsurance contracts (collectively, the "Reinsurance Treaties"):

a. Third/Fourth Excess treaty, effective 1/1/77 to 1/1/80 (the "Third/Fourth Excess Treaty");

b. Fourth Excess treaty, effective 4/1/80 to 4/1/81 (the "Fourth Excess Treaty"); and

c. Fifth Excess treaty, effective 4/1/80 to 4/1/81 (the "Fifth Excess Treaty").

True and correct copies of the Reinsurance Treaties are attached as Exhibits 1 through 3.

6. Each of the Reinsurance Treaties expressly provides that, upon request, Transport "will afford [Underwriters] an opportunity to be associated with [Transport], at the expense of [Underwriters], in the defense or control of any claim or suit or proceeding involving this reinsurance and that [Transport] will cooperate in every respect in the defense or control of such claim, suit or proceeding." (collectively, the "Association Provisions").

7. The Reinsurance Treaties also contain clauses requiring that any disputes "relating to the interpretation, performance, or breach of [the Reinsurance Treaties] shall be settled by arbitration" (the "Arbitration Clauses"). The Arbitration Clauses state that "[t]he decision rendered by a majority of the arbitrators shall be final and binding upon both parties" and "[s]uch decision shall be a condition precedent to any right of legal action arising out of the arbitrated dispute which either party may have against the other." The Arbitration Clauses also state: "Judgment upon the [arbitration] award rendered may be entered in any court having jurisdiction thereof."

The Vulcan Claims

8. The Reinsurance Treaties (subject to all of their terms, conditions, and exclusions) provide reinsurance coverage for certain policies of insurance that Transport issued to Vulcan between 1963 and 1981 (the "Vulcan Policies").

9. From 2000 through 2011, Vulcan submitted a number of claims to Transport under the Vulcan Policies, all of which arose out Vulcan's liability for environmental losses. Transport made payments to Vulcan in connection with three sets of environmental liabilities, which concerned Pilgrim Enterprises, IBM, and the City of Modesto, California (collectively, the "Vulcan Claims").

10. Pilgrim Enterprises asserted that Vulcan was responsible for property damage (*i.e.,* environmental contamination) at a number of dry-cleaning sites located in Texas. Vulcan, in turn, sought defense and indemnification from Transport under the Vulcan Policies against Pilgrim's claims (the "Pilgrim Claims"). In 2000, Transport and Vulcan settled the Pilgrim Claims. The amount that Transport paid to settle the Pilgrim Claims is confidential.

11. IBM asserted that Vulcan was responsible for bodily injuries suffered by employees of IBM (and their family members) who were exposed to Vulcan chemicals during manufacturing processes in IBM's facilities in New York and Vermont. Vulcan sought defense and indemnification from Transport under the Vulcan Policies with respect to IBM's claims (the "IBM Claims") In 2006, Transport and Vulcan settled the IBM Claims. The amount that Transport paid to settle the IBM Claims is confidential.

12. The City of Modesto, California asserted that Vulcan was responsible for environmental contamination at or around a number of dry-cleaning sites located in Modesto,

California (the "Modesto Claims"). Vulcan sought coverage under the Vulcan Policies from Transport against the City of Modesto Claims.

13. Vulcan asserted that the Modesto Claims triggered coverage under policies issued by Transport to Vulcan covering the periods from January 1, 1963 to January 1, 1972 and from January 1, 1976 to January 1, 1982. Vulcan further alleged that the policy Transport issued for the period January 1, 1981, through January 1, 1982, policy no. XGL-731-81-1 (the "1981 Policy") obligated Transport to defend Vulcan against the Modesto claims.

14. Transport refused to defend Vulcan against the Modesto claims.

15. In January 2005, Transport sued Vulcan in California state court. Transport sought a declaration that it had no obligation to defend or indemnify Vulcan against the Modesto Claims, and Transport and Vulcan litigated that dispute for years.

16. In 2010, the California Court of Appeals held that, under the terms of the 1981 Policy, Transport was obligated to defend Vulcan "if any claim was potentially covered by its policy." *Legacy Vulcan Corp. v. Superior Court*, 185 Cal. App. 4th 677, 693 (2010).

17. Despite the Appellate Court's decision, Transport continued to deny that it had any defense obligations to Vulcan under the 1981 Policy.

18. Transport and Vulcan elected to resolve their disputes concerning the duty to defend and other issues and, as a result, Transport made a lump sum payment to Vulcan. The amount of that lump sum settlement payment is confidential.

19. After paying that lump sum, Transport allocated its payment in connection with the Modesto Claims to the Vulcan Policies.

20. Vulcan, apparently, did not agree with Transport's allocation, because Vulcan has described Transport's allocation in subsequent court filings as "ha[ving] no justifiable basis, in fact, law or equity."

21. Shortly after informing Vulcan of its allocation of the Modesto Claims payment, Transport initiated a declaratory judgment action seeking approval of its allocation of that payment. Vulcan later filed a Cross-Complaint against Transport. Transport and Vulcan continue to be engaged in litigation over these allocation issues in Los Angeles Superior Court, docket number BC481850 (the "Transport-Vulcan Litigation") which was consolidated for all proceedings with docket number BC328022, realigning Vulcan as plaintiff. A copy of Vulcan's Amended Complaint in the consolidated action is attached as Exhibit 6.

22. As part of the Transport-Vulcan Litigation, Vulcan is seeking a declaration that Transport improperly allocated the Vulcan Claims to the Vulcan Policies. Vulcan alleges that Transport's allocations are unreasonable and done in bad faith, because Transport's allocation of the Modesto Claims payment to the 1981 Policy was made for the purpose of terminating Transport's defense obligation under that policy. Vulcan explains that, despite its claim that Transport owed its over $15 million in defense costs, Transport failed to allocate any of its payment of the Modesto Claims to defense costs, because those costs are paid in addition to the limits of the 1981 Policy and, therefore, would not diminish Transport's indemnity obligation under the Vulcan Policies.

23. Vulcan also states that Transport allocated the lump sum payment for the Modesto Claims first to the 1981 Policy, so Transport could exhaust the 1981 Policy's aggregate limit for "product hazard" claims and extinguish Transport's obligation to pay any further indemnity under that policy. Only after exhausting the 1981 Policy did Transport spread any of its payment

in connection with the Modesto Claims to the remaining fourteen years of coverage available under the Vulcan Policies.

24. As Vulcan explained in its Amended Complaint, the effect and purpose of Transport's allocation to the 1981 Policy was "to artificially exhaust the aggregate limit of the 1981 Transport Policy in order to prematurely terminate Transport's duty to defend Vulcan in other cases."

25. Transport-Vulcan Litigation remains on-going.

The Reinsurance Billings

26. In April 2011, Transport sent reinsurance billings to Underwriters concerning the payments it had made to Vulcan ("Vulcan Reinsurance Billings").

27. The Vulcan Reinsurance Billings were sent to Underwriters from Transport's Boston office.

28. The Vulcan Reinsurance Billings combined Transport's payments in connection with the Pilgrim Claims, the IBM Claims, and the Modesto Claims into a single, overarching reinsurance loss supposedly arising out of the same event.

29. The Vulcan Reinsurance Billings were based (in part) on an allocation of the Modesto Claims to the Vulcan Policies that partially, but not entirely, tracked the allocation that Transport told Vulcan it had employed, which allocation prompted Vulcan's claims in the Transport-Vulcan Litigation.

30. Underwriters raised questions and requested more information from Transport concerning the Vulcan Reinsurance Billings.

The Arbitration

31. On December 16, 2011, Transport demanded arbitration against Underwriters, seeking payment of the Vulcan Reinsurance Billings.

32. A three-member arbitration panel (the "Panel") was convened pursuant to the Arbitration Clauses. The parties agreed to maintain "Arbitration Information" as confidential.

33. Following a discovery period, the parties submitted pre-hearing briefs and exhibits and attended two evidentiary hearings. The first hearing began on October 7, 2013 and ended on October 10, 2013. The second hearing began on April 7, 2013 and ended on April 8, 2013.

The Interim Final Award

34. The Panel issued an award on July 29, 2014 (the "Interim Final Award"). A true and correct copy of the Interim Final Award is attached as Exhibit 4.

35. The Interim Final Award imposed prospective obligations.

Transport's Revised Billing

36. After the Interim Final Award, Transport submitted revised reinsurance billings to Underwriters on August 11, 2014 ("Transport's Revised Billing").

37. Underwriters contested Transport's Revised Billing, but issued payment to Transport on the undisputed amount of their conditional payment.

38. The parties submitted arguments to the Panel concerning the Revised Billing.

The Final Award

39. On October 23, 2014, the Panel issued a Final Award (the "Final Award"). A true and correct copy of the Final Award is attached as Exhibit 5.

40. The Final Award expressly incorporates the Interim Final Award by reference.

41. The Final Award and the Interim Final Award constitute, collectively, the "Arbitration Award" that is the subject of this Petition.

42. The Arbitration Award imposes prospective obligations and vests in Underwriters a direct, non-contingent interest which Underwriters cannot protect fully without a judicial order confirming the Arbitration Award and entering judgment in accordance with the Arbitration Award.

43. The Panel did not remain constituted after issuing the Arbitration Award and has not retained jurisdiction over any future disputes related to the Reinsurance Treaties or disputes related to compliance with the Arbitration Award.

The Arbitration Award Should Be Confirmed and Judgment Entered Thereon

44. This Petition is timely because it has been filed within three years after the Arbitration Award was issued, in accordance with Section 207 of Chapter 2 of the FAA.

45. No motion has been made to set aside, suspend, vacate, modify or correct the Arbitration Award.

46. No previous application has made to any court for the relief requested in this Petition.

47. None of the bases for refusal of recognition and enforcement of arbitration awards under the Convention apply to the Arbitration Award.

48. Pursuant to 9 U.S.C. § 207, Underwriters are entitled to an order of this Court, confirming the Arbitration Award. Underwriters reserve their right to present oral argument, should the Court believe that such argument would be useful.

49. Pursuant to 9 U.S.C. §§ 13 and 208, this Court should enter a judgment in accordance with the Arbitration Award.

WHEREFORE, Underwriters respectfully request that the Court enter an order confirming the Arbitration Award and entering a judgment thereon, as well as such other relief as the Court deems just and proper.

Respectfully submitted,

/s/ Joseph K. Scully

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EXHIBIT 1

UNX 1236

PREVIOUSLY AGREED THROUGH OTHER BROKERS ?

THIRD EXCESS CASUALTY REINSURANCE CONTRACT NO. 9316

issued to

TRANSPORT INSURANCE COMPANY
Des Moines, Iowa
and
TICO INSURANCE COMPANY
Yonkers, New York

by

CERTAIN UNDERWRITING MEMBERS OF LLOYD'S

E. W. BLANCH CO.

REINSURANCE SERVICES

Northwestern Financial Center

7900 Xerxes Avenue South

Minneapolis, Minnesota 55431

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Yonkers, New York
(hereinafter referred to collectively as the "Company")

by the

CERTAIN UNDERWRITING MEMBERS OF LLOYD'S
shown in the Signing Schedule attached hereto
(hereinafter referred to with others as the "Reinsurer")

for a 0.50% share in 100% of the interests and liabilities shown herein.

ARTICLE I - CLASSES OF BUSINESS REINSURED

A. By this Contract the Reinsurer agrees to indemnify the Company with respect to the net excess liability which may accrue to the Company as a result of losses occurring during the currency of this Contract under policies, contracts and binders of insurance and reinsurance (hereinafter called "policies") in force at the inception hereof or issued or renewed thereafter, and classified by the Company as:

1. Bodily Injury Liability;

2. Property Damage Liability;

3. Uninsured and Underinsured Motorists;

4. Miscellaneous Occupational, Comprehensive and Legal Liability;

5. Personal Injury Liability and Medical Payments where included with the above;

6. Garage Liability;

7. Self-insured Bonds;

8. Workmen's Compensation and Employers Liability, including Voluntary Compensation;

9. Automobile Physical Damage;

10. Inland Marine;

subject to the terms and conditions hereinafter set forth.

B. It is understood and agreed that the Motor Vehicle classes of business reinsured under this Contract are deemed to include basic and optional "No-Fault" benefits provided pursuant to the Automobile Accident Reparations Act of any state, and statutorily required coverages for non-resident drivers, following the provisions of the Company's policies when they include or are deemed to include provisions similar to ISO Endorsement A979a.

C. "Net excess liability" of the Company as used herein is defined as the amount by which the Company's net loss from any one loss occurrence, any one insured, exceeds its initial loss retention stipulated in Article V.

ARTICLE II - TERRITORY

This Contract shall apply only to losses occurring within the United States of America, its territories and possessions and Canada; but this limitation shall not apply to losses occurring within the territorial limits of the Company's original policies.

ARTICLE III - EXCLUSIONS

A. This Contract does not cover and specifically excludes the following:

1. Reinsurance assumed by the Company, except for inter-company reinsurance assumptions;

2. As regards interests which at time of loss or damage are on shore, no liability shall attach hereto in respect of any loss or damage which is occasioned by war, invasion, hostilities, acts of foreign enemies, civil war, rebellion, insurrection, military or usurped power, or martial law or confiscation by order of any government or public authority. This War Exclusion Clause shall not, however, apply to interests which at time of loss or damage are within the territorial limits of the United States of America (comprising the Fifty States of the Union,

the District of Columbia, and including bridges between the United States of America and Mexico provided they are under United States ownership), Canada, St. Pierre and Miquelon, provided such interests are insured under policies, endorsements or binders containing a standard war or hostilities or warlike operations exclusion clause.

3. Atomic energy and nuclear fission risks;

4. Nuclear energy risks as set forth in the Nuclear Incident Exclusion Clause - Liability - Reinsurance U.S.A.," "Nuclear Incident Exclusion Clause - Liability - Reinsurance Canada," "Nuclear Incident Exclusion Clause - Physical Damage - Reinsurance U.S.A.," and "Nuclear Incident Exclusion Clause - Physical Damage - Reinsurance Canada" attached to and forming part of this Contract.

5. Business written as a participant in a Pool, Syndicate, or Association;

6. All liability of the Company arising by contract, operation of law, or otherwise, from its participation or membership, whether voluntary or involuntary, in any insolvency fund. "Insolvency fund" includes any guaranty fund, insolvency fund, plan, pool, association, fund or other arrangement, however denominated, established or governed, which provides for any assessment of or payment or assumption by the Company of part or all of any claim, debt, charge, fee or other obligation of an insurer, or its successors or assigns, which has been declared by any competent authority to be insolvent, or which is otherwise deemed unable to meet any claim, debt, charge, fee or other obligation in whole or in part.

7. Life Assurance;

8. Accident and Health Insurance;

9. Ocean Marine business, except for pleasure boats written by the Company and classified as Ocean Marine;

10. Fidelity and Surety and any form of Credit Insurance, except for Self-insured Bonds issued by the Company;

11. Financial Guarantee, Credit and Insolvency risks;

12. Boiler and Machinery business;

13. Forged Warehouse Receipts;

14. All Forms of legal liability arising out of the operation or navigation of ships or vessels other than:

    a. Yachts, small pleasure craft and sports fishing vessels,

    b. Vessels operating exclusively in inland and/or coastal waters, where legal liability on such vessels is incidental to the coverage provided either under a general liability policy or under a comprehensive form of policy;

15. Pollution and Seepage as per the Bureau Exclusion in primary General Liability policies;

16. As respects General Liability and Workmen's Compensation and Employers' Liability, it is understood and agreed that this Contract shall not cover any of the following occupations or employments:

    a. Fireworks and Ammunition manufacturing,

    b. Fuse and Explosives manufacturing,

    c. Nitro-Glycerine manufacturing,

    d. Manufacture of Cellulose and Pyroxlin,

    e. Underground coal mining,

    f. Railroad business,

    g. Pharmaceutical manufacturing,

    h. Public utilities,

    i. Oil Well drilling,

    j. Refining of oil, gasoline and/or spirits,

    k. Risks whose principal occupation involves U.S. Longshoremen's and Harbor Worker's Act or Jones Act coverage,

    l. Production of moving pictures;

17. Aviation business, including aircraft manufacturing, but this exclusion shall not apply to liability assumed by the Company under Non-Owned Aircraft coverage;

18. Water damage legal liability, but this exclusion shall not apply to water damage legal liability covered under a motor truck cargo liability policy, or to the liability of the Company under Section 215 of the Interstate Commerce Act;

19. Security and Exchange Act liability written as such;

20. Directors and Officers liability written as such;

21. Professional and/or Professional Malpractice liability, including Errors and Omissions coverage, but this exclusion shall not apply to incidental medical malpractice to the extent that such coverage is afforded under those classifications of original policies designated in subparagraphs 4 and 5 of Article I(A).

B. With regard to the exclusions shown in subparagraphs 15 through 18 above it is expressly understood and agreed that as respects policies issued by the Company where such excluded classifications are incidental to and/or form a minor part of the principal operations of the original risk, such policies shall not be excluded hereunder. Any such excluded classification shall be deemed incidental to and/or to form a minor part of the principal operations of the original risk if the Company's underwriter does not charge more than 10% of the total policy standard premium for coverage of the excluded classification.

C. Should the Company, by reason of an erroneous act of any agent or of any employee, be bound and assume coverage on any risk within the classes of business covered by this Contract, but specifically excluded by one or more of the exclusions set forth in subparagraphs 15 through 21 above, then such policy shall be covered hereunder, provided the Company relieves itself of the coverage assumed as quickly as possible. However, the Reinsurer's liability shall in no event exceed the limit stipulated in Article V.

ARTICLE IV - LIABILITY OF REINSURER

A. The liability of the Reinsurer shall follow that of the Company in every case, and shall be subject in all respects to all the general and special stipulations, clauses, waivers and modificaions of the Company's policies, binders or other undertakings, and any endorsements thereon. No error or omission in reporting any risk reinsured hereunder shall invalidate the liability of the Reinsurer, but the reporting of reinsurance not authorized by this Contract and not authorized by special acceptance hereunder shall not bind the Reinsurer, except for return of premiums paid therefor.

B. Nothing herein shall in any manner create any obligations or establish any rights against the Reinsurer in favor of any third parties or any persons not parties to this Contract.

ARTICLE V - RETENTION AND LIMIT

A. No claim shall be made hereunder unless the Company shall have first sustained by reason of any one loss occurrence, any one insured, a net loss in excess of $1,000,000. The Reinsurer shall then be liable for the amount of net loss in excess of $1,000,000 each loss occurrence, any one insured, but the liability of the Reinsurer shall not exceed $3,000,000, any one loss occurrence, any one insured.

B. In the event of loss or losses hereunder, it is agreed that the reinsurance hereunder is reinstated automatically to the full amount, such reinstatement or reinstatements to take effect immediately upon the occurrence of such loss or losses.

ARTICLE VI - LOSS ADJUSTMENT EXPENSES

A. The term "loss adjustment expenses" shall mean all expenses incurred by the Company in the investigation, appraisal, adjustment, litigation and defense of claims (including court costs and interest where classified as expense) but excluding the Company's office expenses and the salaries of its regular employees.

B. Loss adjustment expenses, where incurred by the Company in connection with claims in which this reinsurance is involved, shall be apportioned between the Company and the Reinsurer in proportion to their respective

interests as finally determined, except that expenses incurred in obtaining salvage or recoveries, or in the reduction or reversal of any award or judgment, shall be apportioned between the Company and the Reinsurer in the proportion that each benefits from such salvage, recovery, reduction or reversal. The Reinsurer's share of loss adjustment expenses shall be in addition to its limit of liability stipulated in Article V.

ARTICLE VII - LOSS IN EXCESS OF POLICY LIMITS

A. In the event the Company pays or is held liable to pay an amount of loss in excess of its policy limit because of alleged or actual bad faith, fraud or negligence on its part in rejecting a settlement within the applicable limits of its policy, or in discharging its duty to defend or prepare the defense in the trial of an action against its policyholder (including its duty to prepare or prosecute an appeal consequent upon such an action), 100% of the loss in excess of the Company's policy limit shall be added to the amount of the Company's policy limit and the sum thereof shall be subject to the terms of this Contract; provided, however, that in no event shall any consequential and/or punitive damages awarded the policyholder against the Company in respect of any claim be recoverable from the Reinsurer unless the Company shall have counseled with the Reinsurer and afforded the Reinsurer an opportunity to be associated with the Company in the defense or control of such claim, prior to or at the time of the trial which resulted in the judgment in excess of the applicable policy limit.

B. No out-of-court settlement of claims, the subject matter of this Article, shall be made by the Company without the consent of the Reinsurer.

C. Recoveries from any form of insurance or other reinsurance which protects the Company against claims, the subject matter of this Article, shall inure to the benefit of the Reinsurer.

ARTICLE VIII - DEFINITION OF NET LOSS

A. The term "net loss" is defined as the ultimate net loss incurred by the Company, plus the amount of any deductible of $10,000 or more retained by the Company's insured, plus interest where classified as loss, but excluding loss adjustment expenses.

B. All salvages and recoveries, including amounts recoverable from other reinsurances (except underlying excess of loss reinsurances), whether collectible or not, shall be first deducted from such loss to arrive at the amount of liability, if any, attaching hereunder. All salvages, recoveries or payments recovered or received subsequent to any loss settlement hereunder shall be applied as if recovered or received prior to the respective settlement, and all necessary adjustments shall be made by the parties hereto.

C. Nothing in this Article shall be construed to mean that losses are not recoverable hereunder until the Company's ultimate net loss has been ascertained.

ARTICLE IX - DEFINITION OF LOSS OCCURRENCE

The term "loss occurrence" as used herein is defined as any one accident or occurrence, or series of accidents or occurrences arising out of one event. Without limiting the generality of the foregoing, the same shall be held to include:

1. As respects Products Bodily Injury Liability and Products Property Damage Liability, all loss or losses included under the definition of occurrence as set forth in the Company's original policies;

2. As respects Bodily Injury Liability other than Products, all claims against any one insured for all injuries to one or more than one person resulting from infection, contagion, poisoning, or contamination proceeding from or traceable to, the same causative agency;

3. As respects Property Damage Liability other than Automobile and Products, all loss or losses caused by a series of operations, events or occurrences arising out of operations at any one specific site which cannot be attributed to any single one of such operations, events or occurrences, but rather to the cumulative effect thereof;

4. As respects Workmen's Compensation and Employers' Liability, an occupational or other disease suffered by an employee, which disease arises out of the employment, and for which the employer is liable. However, in case the Company shall, within a policy year and the term of this Contract, sustain several losses arising out of such an occupational or other

disease of one specific kind or class, suffered by several employees of one insured, such losses shall be deemed to arise out of one loss occurrence. A loss as respects occupational or other disease shall be deemed to have occurred on the date when compensable disability of the first employee commenced and at no other date.

ARTICLE X - PERMITTED REINSURANCE

A. The Company is hereby granted permission to carry underlying excess of loss reinsurance for $900,000 excess of $100,000 (which figure includes self insured deductibles of $10,000 or more) net loss, each loss occurrence, any one insured, it being understood and agreed that in calculating the amount of any loss hereunder, and also in computing the amount in excess of which this Contract attaches, the net loss of the Company shall not be considered reduced by any amount or amounts recoverable thereunder.

B. The Company is hereby permitted to place reinsurance outside of this Contract whenever, in its judgment, it is desirable to do so.

ARTICLE XI - WARRANTY

The Company warrants that it will maintain net at least the primary $100,000 referred to in Article X(A) above (which figure includes self insured deductibles of $10,000 or more).

ARTICLE XII - PREMIUM

A. As premium for the reinsurance provided under this Contract, the Company shall pay to the Reinsurer 1.0% of its subject net earned premiums during the currency of this Contract, subject to a $485,000 annual minimum premium, United States currency or equivalent.

B. The term "subject net earned premiums" of the Company as used herein is defined as the total net premiums (i.e., gross premiums, less cancellations and return premiums, less inuring reinsurance premiums) earned by the Company during the currency of this Contract on the classes of business covered hereunder, after deduction of premiums applying to risks, perils and classes of risk excluded specifically in Article III hereof. It is specially agreed that subject net earned premiums shall not include retrospective deficit or credit premiums,

Stop Loss Protection (Maximum Premium Limitation) premiums, or that portion of premiums considered commissions payable by the Company. All calculations of unearned premiums shall be made on the semimonthly pro rata basis.

ARTICLE XIII - LOSS SETTLEMENTS

The Reinsurer agrees to abide by the loss settlements of the Company, it being understood, however, that when so requested, the Company will afford the Reinsurer an opportunity to be associated with the Company, at the expense of the Reinsurer, in the defense or control of any claim or suit or proceeding involving this reinsurance and that the Company will cooperate in every respect in the defense or control of such claim, suit or proceeding.

ARTICLE XIV - PREMIUM AND LOSS REPORTS

A. Within 45 days after the end of each month during the currency of this Contract the Company shall furnish a statement to the Reinsurer setting forth by major class, United States and Canadian separately, its subject net earned premiums for the month and the reinsurance premium due hereunder.

B. The Company shall give prompt notice to the Reinsurer on all claims reserved in excess of $500,000 and on all losses which, in the judgment of the Company, could result in a claim involving reinsurance hereunder. Also, the Company shall advise the Reinsurer of all subsequent developments pertaining to such claims or losses if, in the opinion of the Company, such developments might materially affect the position of the Reinsurer.

ARTICLE XV - PREMIUM AND LOSS REMITTANCES

A. Within 45 days after the end of each month during the currency of this Contract, the balance of premiums due hereunder and losses claimed hereunder shall be paid by the debtor party to the creditor party. It is agreed, however, that any one loss hereunder exceeding $50,000 shall be paid immediately by the Reinsurer upon receipt of an individual proof of loss.

B. As promptly as possible after each December 31 during the currency of this Contract, the Company shall calculate the premium due for the preceding 12-month period at the rate stipulated in Article XII, and the

amount, if any, by which the premium so determined is less than $485,000 United States currency or equivalent shall be remitted by the Company to the Reinsurer.

ARTICLE XVI - CURRENCY

The provisions of this Contract involving dollar amounts are expressed in United States currency as respects policies issued by the Company in United States currency, and in Canadian currency as respects policies issued by the Company in Canadian currency. Premiums and losses hereunder involving Canadian currency shall be reported separately, and shall be settled in Canadian currency.

ARTICLE XVII - ERRORS AND OMISSIONS

The position of the Company shall not be prejudiced by any error or omission in reporting premiums or losses under this Contract, or in claiming losses recoverable hereunder. Any such errors or omissions shall, however, be corrected upon discovery.

ARTICLE XVIII - ACCESS TO RECORDS

The Reinsurer, by its duly appointed representatives, shall have the right at any reasonable time to examine all papers in the possession of the Company referring to business effected hereunder.

ARTICLE XIX - INSOLVENCY

A. In the event of the insolvency of one or both of the reinsured companies, this reinsurance shall be payable directly to the company, or to its liquidator, receiver, conservator or statutory successor on the basis of the liability of the company without diminution because of the insolvency of the company or because the liquidator, receiver, conservator or statutory successor of the company has failed to pay all or a portion of any claim. It is agreed, however, that the liquidator, receiver, conservator or statutory successor of the company shall give written notice to the Reinsurer of the pendency of a claim against the company indicating the policy or bond reinsured which claim would involve a possible liability on the part of the Reinsurer within a reasonable time after such claim is filed in the conservation or liquidation proceeding or in the receivership, and that during the pendency of such claim, the Reinsurer may investigate such claim and interpose, at its own expense, in the proceeding where

such claim is to be adjudicated, any defense or defenses that it may deem available to the company or its liquidator, receiver, conservator or statutory successor. The expense thus incurred by the Reinsurer shall be chargeable, subject to the approval of the Court, against the company as part of the expense of conservation or liquidation to the extent of a pro rata share of the benefit which may accrue to the company solely as a result of the defense undertaken by the Reinsurer.

B. Where two or more reinsurers are involved in the same claim and a majority in interest elect to interpose defense to such claim, the expense shall be apportioned in accordance with the terms of this Contract as though such expense had been incurred by the company.

ARTICLE XX - ARBITRATION

A. Any dispute or other matter in question arising between the Company and any of the reinsurers out of or relating to the interpretation, performance, or breach of this Contract shall be settled by arbitration. Arbitration shall be initiated by the delivery of a written notice of demand for arbitration by one party to the other within a reasonable time after the dispute has arisen. Those reinsurers involved in the dispute or other matter in controversy shall be considered as one party for the purpose of allocating the cost of the arbitration.

B. Each party shall appoint an individual as arbitrator and the two so appointed shall then appoint a third arbitrator. If either party refuses or neglects to appoint an arbitrator within sixty days, the other party may appoint the second arbitrator. If the two arbitrators do not agree on a third arbitrator within sixty days of their appointment, each of the arbitrators shall nominate three individuals. Each arbitrator shall then decline two of the nominations presented by the other arbitrator. The third arbitrator shall then be chosen from the remaining two nominations by drawing lots. The arbitrators shall be active or retired officers of insurance or reinsurance companies, members of the bar or Lloyd's London Underwriters; the arbitrators shall not have a personal or financial interest in the result of the arbitration.

C. The arbitration hearings shall be held in Dallas, Texas or such other place as may be mutually agreed. Each party shall submit its case to the arbitrators within

sixty days of the selection of the third arbitrator or within such longer period as may be agreed by the arbitrators. The arbitrators shall not be obliged to follow judicial formalities or the rules of evidence except to the extent required by governing law, that is, the state law of the situs of the arbitration as herein agreed; they shall make their decisions according to the practice of the reinsurance business. The decision rendered by a majority of the arbitrators shall be final and binding upon both parties. Such decision shall be a condition precedent to any right of legal action arising out of the arbitrated dispute which either party may have against the other. Judgment upon the award rendered may be entered in any court having jurisdiction thereof.

D. Each party shall pay the fee and expenses of its own arbitrator and one-half of the fee and expenses of the third arbitrator. All other expenses of the arbitration shall be equally divided between the parties.

E. Except as provided above, arbitration shall be based, insofar as applicable, upon the procedures of the American Arbitration Association.

ARTICLE XXI - INTERMEDIARY

E. W. Blanch Co., Reinsurance Services, Northwestern Financial Center, 7900 Xerxes Avenue South, Minneapolis, Minnesota 55431, is hereby recognized as the intermediary by whom this Contract was negotiated, and through whom all communications relating thereto shall be transmitted to both parties.

ARTICLE XXII - COMMENCEMENT AND TERMINATION

A. This Contract shall become effective at January 1, 1977, with respect to loss occurrences commencing at and after that date, and shall continue in force thereafter until terminated in accordance with paragraph B hereof.

B. Either party may terminate this Contract at midnight on any December 31 by giving to the other party not less than 90 days prior notice by certified letter. Unless otherwise mutually agreed, the Reinsurer shall not be liable hereunder for losses arising out of loss occurrences commencing after the effective time and date of termination.

ARTICLE XXIII - EXTENDED TERMINATION

Should this Contract be terminated while a loss occurrence covered hereunder is in progress, it is understood and agreed that subject to the other conditions of this Contract the Reinsurer shall be responsible for its proportion of the entire loss or damage caused by such loss occurrence.

ARTICLE XXIV - COMMUTATION

It is hereby agreed that not later than 36 months from the expiration date of each "Policy Year" (or the termination date, if this Contract is cancelled by either party), and annually thereafter, the Company shall advise the Reinsurer of all claims involving or likely to involve periodical payments. The Reinsurer may then or at any time thereafter intimate to the Company their desire to be released from liability in respect of any one or more of such claims. In such event the Company and the Reinsurer shall mutually appoint an Actuary or Appraiser to investigate, determine and capitalise such claim or claims and the payment by the Reinsurer of their proportion of such amount shall constitute a complete and final release of the Reinsurer's liability in respect of such claim or claims.

ARTICLE XXV - LOSS RESERVES (applicable only to the participation of reinsurers who cannot qualify for credit in the state or province having jurisdiction over the Company's loss reserves).

A. As regards policies or bonds of the Company subject to this Contract, the Company agrees that when it shall file with the Insurance Department or set up on its books reserves for losses covered hereunder which it shall be required to set up by law it will forward to the Reinsurer a statement showing the proportion of such loss reserves applicable to the Reinsurer. The Reinsurer hereby agrees to apply for and secure delivery to the Company of a clean irrevocable Letter of Credit issued by First National City Bank of New York in an amount equal to the Reinsurer's proportion of said loss reserves.

B. The Company undertakes to use and apply any amounts which it may draw upon such Credit pursuant to the terms of the Agreement under which the Letter of Credit is held, and for the following purposes only:

   1. To pay the Reinsurer's share or to reimburse the Company for the Reinsurer's share of any liability for loss reinsured by this Contract.

2. To make refund of any sum which is in excess of the actual amount required to pay the Reinsurer's share of any liability reinsured by this Contract.

C. First National City Bank of New York shall have no responsibility whatsoever in connection with the propriety of withdrawals made by the Company or the disposition of funds withdrawn, except to see that withdrawals are made only upon the order of properly authorized representatives of the Company.

ARTICLE XXVI - SERVICE OF SUIT

A. In the event of the failure of the Reinsurer hereon to pay any amount claimed to be due hereunder, the Reinsurer hereon, at the request of the Company, will submit to the jurisdiction of any Court of competent jurisdiction within the United States and will comply with all requirements necessary to give such Court jurisdiction; and all matters arising hereunder shall be determined in accordance with the law and practice of such Court.

B. Service of process in such suit may be made upon Mendes & Mount, 27 William Street, New York, New York, 10005 and in any suit instituted against any one of them upon this Contract, the Reinsurer will abide by the final decision of such Court or of any Appelate Court in the event of an appeal.

C. The above-named are authorized and directed to accept service of process on behalf of the Reinsurer in any such suit and/or upon the request of the Company to give a written undertaking to the Company that they will enter a general appearance upon the Reinsurer's behalf in the event such a suit shall be instituted.

D. Further, pursuant to any statute of any State, Territory, or District of the United States which makes provision therefor, the Reinsurer hereon hereby designates the Superintendent, Commissioner, or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the Company or any beneficiary hereunder arising out of this Contract and hereby designate the above-named Mendes & Mount as the firm to which the said officer is authorized to mail such process or a true copy thereof.

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NUCLEAR INCIDENT EXCLUSION CLAUSE—LIABILITY—REINSURANCE

(Approved by Lloyd's Underwriters' Fire and Non-Marine Association)

(1) This reinsurance does not cover any loss or liability accruing to the Reassured as a member of, or subscriber to, any association of insurers or reinsurers formed for the purpose of covering nuclear energy risks or as a direct or indirect reinsurer of any such member, subscriber or association.

(2) Without in any way restricting the operation of paragraph (1) of this Clause it is understood and agreed that for all purposes of this reinsurance all the original policies of the Reassured (new, renewal and replacement) of the classes specified in Clause II of this paragraph (2) from the time specified in Clause III in this paragraph (2) shall be deemed to include the following provision (specified as the Limited Exclusion Provision):

Limited Exclusion Provision.*

I. It is agreed that the policy does not apply under any liability coverage, to *'injury, sickness, disease, death or destruction'* bodily injury or property damage with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability.

II. Family Automobile Policies (liability only), Special Automobile Policies (private passenger automobiles, liability only), Farmers Comprehensive Personal Liability Policies (liability only), Comprehensive Personal Liability Policies (liability only) or policies of a similar nature; and the liability portion of combination forms related to the four classes of policies stated above, such as the Comprehensive Dwelling Policy and the applicable types of Homeowners Policies.

III. The inception dates and thereafter of all original policies as described in II above, whether new, renewal or replacement, being policies which either

(a) become effective on or after 1st May, 1960, or

(b) become effective before that date and contain the Limited Exclusion Provision set out above;

provided this paragraph (2) shall not be applicable to Family Automobile Policies, Special Automobile Policies, or policies or combination policies of a similar nature, issued by the Reassured on New York risks, until 90 days following approval of the Limited Exclusion Provision by the Governmental Authority having jurisdiction thereof.

(3) Except for those classes of policies specified in Clause II of paragraph (2) and without in any way restricting the operation of paragraph (1) of this Clause, it is understood and agreed that for all purposes of this reinsurance the original liability policies of the Reassured (new, renewal and replacement) affording the following coverages:

Owners, Landlords and Tenants Liability, Contractual Liability, Elevator Liability, Owners or Contractors (including railroad) Protective Liability, Manufacturers and Contractors Liability, Product Liability, Professional and Malpractice Liability, Storekeepers Liability, Garage Liability, Automobile Liability (including Massachusetts Motor Vehicle or Garage Liability)

shall be deemed to include, with respect to such coverages, from the time specified in Clause V of this paragraph (3), the following provision (specified as the Broad Exclusion Provision):

Broad Exclusion Provision.*

It is agreed that the policy does not apply:

I. Under any Liability Coverage, to *'injury, sickness, disease, death or destruction'* bodily injury or property damage

(a) with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

II. Under any Medical Payments Coverage, or under any Supplementary Payments Provision relating to *'immediate medical or surgical relief'* first aid, to expenses incurred with respect to *'bodily injury, sickness, disease or death'* bodily injury resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

III. Under any Liability Coverage, to *injury, sickness, disease, death or destruction* / bodily injury or property damage resulting from the hazardous properties of nuclear material, if

(a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;

(b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or

(c) the *injury, sickness, disease, death or destruction* / bodily injury or property damage arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories, or possessions or Canada, this exclusion (c) applies only to *injury to or destruction of property at such nuclear facility.* / property damage to such nuclear facility and any property thereat.

IV. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties; "nuclear material" means source material, special nuclear material or byproduct material; "source material", "special nuclear material", and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof; "spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor; "waste" means any waste material (1) containing byproduct material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof; "nuclear facility" means

(a) any nuclear reactor,

(b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling processing or packaging waste,

(c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations; "nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

With respect to injury to or destruction of property, the word "injury" or "destruction" / "property damage" includes all forms of radioactive contamination of property. *includes all forms of radioactive contamination of property.*

V. The inception dates and thereafter of all original policies affording coverages specified in this paragraph (3), whether new, renewal or replacement, being policies which become effective on or after 1st May, 1960, provided this paragraph (3) shall not be applicable to

(i) Garage and Automobile Policies issued by the Reassured on New York risks, or

(ii) statutory liability insurance required under Chapter 90, General Laws of Massachusetts,

until 90 days following approval of the Broad Exclusion Provision by the Governmental Authority having jurisdiction thereof.

(4) Without in any way restricting the operation of paragraph (1) of this Clause, it is understood and agreed that paragraphs (2) and (3) above are not applicable to original liability policies of the Reassured in Canada and that with respect to such policies this Clause shall be deemed to include the Nuclear Energy Liability Exclusion Provisions adopted by the Canadian Underwriters' Association or the Independent Insurance Conference of Canada.

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*NOTE. The words printed in italics in the Limited Exclusion Provision and in the Broad Exclusion Provision shall apply only in relation to original liability policies which include a Limited Exclusion Provision or a Broad Exclusion Provision containing those words.

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NUCLEAR INCIDENT EXCLUSION CLAUSE - LIABILITY - REINSURANCE
CANADA

1. This reinsurance does not cover any loss or liability accruing to the Company as a member of, or subscriber to, any association of insurers or reinsurers formed for the purpose of covering nuclear energy risks or as a direct or indirect reinsurer of any such member, subscriber, or association.

2. Without in any way restricting the operation of paragraph 1 of this clause it is agreed that for all purposes of this reinsurance all the original liability contracts of the Company, whether new, renewal or replacement, of the following classes, namely,

Personal Liability,
Farmers Liability,
Storekeepers Liability,

Which become effective on or after 31st December 1962, shall be deemed to include, from their inception dates and thereafter, the following provision: --

LIMITED EXCLUSION PROVISION

This Agreement does not apply to injury, sickness, disease, death damage or destruction with respect to which an insured under this Agreement is also insured under a contract or nuclear energy liability insurance (whether the insured is named in such Agreement or not and whether or not it is legally enforceable by the insured) issued by the Nuclear Insurance Association of Canada or any other group or pool of insurers or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability.

With respect to property, loss of use of such property shall be deemed to be damage to or destruction of property.

3. Without in any way restricting the operation of paragraph 1 of this clause it is agreed that for all purposes of this reinsurance all the original liability contracts of the Company, whether new, renewal or replacement, of any class whatsoever (other than personal liability, farmers liability, storekeepers liability or automobile liability contracts), which become effective on or after 31st December 1962, shall be deemed to include, from their inception dates and thereafter, the following provision: -

BROAD EXCLUSION PROVISION: -

This Agreement does not apply to injury, sickness, disease, death, damage or destruction

(A) With respect to which an insured under this Agreement is also insured under a contract of nuclear energy liability insurance (whether

the insured is named in such contract or not and whether or not is is legally enforceable by the insured) issued by the Nuclear Insurance Association of Canada or any other group or pool or insurers or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(B) Resulting directly or indirectly from the nuclear energy hazard arising from:

(1) The ownership, maintenance, operation or use of a nuclear facility by or on behalf of an insured:

(2) The furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility; and

(3) The transportation, consumption, possession, handling, disposal or use of radioactive material (other than radioisotopes away from a nuclear facility) sold, handled, used or distributed by an insured.

As used in this Endorsement:

(I) The term "Nuclear Energy Hazard" means the radioactive, toxic, explosive or other hazardous properties of radioactive material;

(II) The term "Radioactive Material" means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances that the Atomic Energy Control Board may, by regulation, designate as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy;

(III) The term "Nuclear Facility" means:

(A) Any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium and uranium or any one or more of them;

(B) Any equipment or device designed or used for (I) separating the isotopes of plutonium, thorium and uranium or any one or more of them, (II) processing

or utilizing spent fuel, or (III) handling, processing or packaging waste;

(C) Any equipment or device used for the processing, fabricating or alloying of plutonium, thorium and uranium or any one or more of them if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(D) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste radioactive material;

and includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.

(IV) With respect to property, loss of use of such property shall be deemed to be damage to or destruction of property.

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NUCLEAR INCIDENT EXCLUSION CLAUSE—PHYSICAL DAMAGE—REINSURANCE

1. This Reinsurance does not cover any loss or liability accruing to the Reassured, directly or indirectly and whether as Insurer or Reinsurer, from any Pool of Insurers or Reinsurers formed for the purpose of covering Atomic or Nuclear Energy risks.

2. Without in any way restricting the operation of paragraph (1) of this Clause, this Reinsurance does not cover any loss or liability accruing to the Reassured, directly or indirectly and whether as Insurer or Reinsurer, from any insurance against Physical Damage (including business interruption or consequential loss arising out of such Physical Damage) to:

I. Nuclear reactor power plants including all auxiliary property on the site, or

II. Any other nuclear reactor installation, including laboratories handling radioactive materials in connection with reactor installations, and "critical facilities" as such, or

III. Installations for fabricating complete fuel elements or for processing substantial quantities of "special nuclear material", and for reprocessing, salvaging, chemically separating, storing or disposing of "spent" nuclear fuel or waste materials, or

IV. Installations other than those listed in paragraph (2) III above using substantial quantities of radioactive isotopes or other products of nuclear fission.

3. Without in any way restricting the operations of paragraphs (1) and (2) hereof, this Reinsurance does not cover any loss or liability by radioactive contamination accruing to the Reassured, directly or indirectly, and whether as Insurer or Reinsurer, from any insurance on property which is on the same site as a nuclear reactor power plant or other nuclear installation and which normally would be insured therewith except that this paragraph (3) shall not operate

(a) where Reassured does not have knowledge of such nuclear reactor power plant or nuclear installation, or

(b) where said insurance contains a provision excluding coverage for damage to property caused by or resulting from radioactive contamination, however caused. However on and after 1st January 1960 this sub-paragraph (b) shall only apply provided the said radioactive contamination exclusion provision has been approved by the Governmental Authority having jurisdiction thereof.

4. Without in any way restricting the operations of paragraphs (1), (2) and (3) hereof, this Reinsurance does not cover any loss or liability by radioactive contamination accruing to the Reassured, directly or indirectly, and whether as Insurer or Reinsurer, when such radioactive contamination is a named hazard specifically insured against.

5. It is understood and agreed that this Clause shall not extend to risks using radioactive isotopes in any form where the nuclear exposure is not considered by the Reassured to be the primary hazard.

6. The term "special nuclear material" shall have the meaning given it in the Atomic Energy Act of 1954 or by any law amendatory thereof.

7. Reassured to be sole judge of what constitutes:
(a) substantial quantities, and
(b) the extent of installation, plant or site.

Note.—Without in any way restricting the operation of paragraph (1) hereof, it is understood and agreed that

(a) all policies issued by the Reassured on or before 31st December 1957 shall be free from the application of the other provisions of this Clause until expiry date or 31st December 1960 whichever first occurs whereupon all the provisions of this Clause shall apply.

(b) with respect to any risk located in Canada policies issued by the Reassured on or before 31st December 1958 shall be free from the application of the other provisions of this Clause until expiry date or 31st December 1960 whichever first occurs whereupon all the provisions of this Clause shall apply

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PREVIOUSLY AGREED THROUGH OTHER BROKERS ?

ADDENDUM NO. 1

to the

THIRD EXCESS CASUALTY
REINSURANCE CONTRACT NO. 9316

Effective: January 1, 1977

issued to

TRANSPORT INSURANCE COMPANY
Des Moines, Iowa
and
TICO INSURANCE COMPANY
Yonkers, New York

by the

CERTAIN UNDERWRITING MEMBERS OF LLOYD'S
shown in the Signing Schedule attached hereto

IT IS HEREBY AGREED, effective December 31, 1977, that the anniversary date of this Contract shall be changed from December 31 to March 31, and each annual period under this Contract shall refer hereafter to each 12-month period beginning April 1 and ending March 31.

IT IS FURTHER AGREED, effective December 31, 1977, that this Contract shall be amended as follows:

1. Paragraph A of ARTICLE XII - PREMIUM - shall be deleted and the following substituted therefor:

   "A. As premium for the reinsurance provided under this Contract, the Company shall pay to the Reinsurer 1.0% of its subject net earned premiums during the currency of this Contract, subject to the minimum premium stipulated in Article XV."

2. Paragraph B of ARTICLE XV - PREMIUM AND LOSS REMITTANCES - shall be deleted and the following substituted therefor:

   "B. As promptly as possible after March 31, 1978, the Company shall calculate the premium due for the period January 1, 1977 through March 31, 1978, at the

rate stipulated in Article XII, and the amount, if any, by which the premium so determined is less than $650,000 United States currency or equivalent shall be remitted by the Company to the Reinsurer.

C. As promptly as possible after March 31, 1979, and after each subsequent March 31 during the currency of this Contract, the Company shall calculate the premium due for the preceeding 12-month period at the rate stipulated in Article XII, and the amount, if any, by which the premium so determined is less than $485,000 United States currency or equivalent shall be remitted by the Company to the Reinsurer."

3. Paragraph B of ARTICLE XXII - COMMENCEMENT AND TERMINATION - shall be deleted and the following substituted therefor:

"B. Either party may terminate this Contract at midnight, March 31, 1978 by giving to the other party not less than 45 days prior notice by certified mail, or at midnight on any subsequent March 31 by giving to the other party not less than 90 days prior notice by certified mail. Unless otherwise mutually agreed, the Reinsurer shall not be liable hereunder for losses arising out of loss occurrences commencing after the effective time and date of termination."

The provisions of this Contract shall remain otherwise unchanged.

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AGREED
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ADDENDUM NO. 2

to the

THIRD EXCESS CASUALTY
REINSURANCE CONTRACT NO. 9316

Effective: January 1, 1977

issued to

TRANSPORT INSURANCE COMPANY
Des Moines, Iowa
and
TICO INSURANCE COMPANY
Yonkers, New York

by

CERTAIN UNDERWRITING MEMBERS OF LLOYD'S
shown in the Signing Schedule attached hereto

for a .50% share in 100% of the interests and liabilities shown in the Third Excess Casualty Reinsurance Contract No. 9316.

IT IS HEREBY AGREED, effective April 1, 1978, that the title of this Contract shall be amended to read:

"THIRD EXCESS CASUALTY
REINSURANCE CONTRACT NO. 1236"

IT IS FURTHER AGREED, effective April 1, 1978, with respect to loss occurrences occurring at and after that date, that this Contract shall be amended as follows:

1. Paragraph A of ARTICLE V - RETENTION AND LIMIT - shall be deleted and the following substituted therefor:

"A. No claim shall be made hereunder unless the Company shall have first sustained by reason of any one loss occurrence, any one insured, a net loss in excess of the greater of $900,000 plus the amount of any deductible retained by the Company's insured, or $1,000,000. The Reinsurer shall then be liable for the amount of net loss in excess of the Company's retention each loss occurrence, any one insured, but the liability of the Reinsurer shall not exceed $3,000,000 any one loss occurrence, any one insured."

E.W. BLANCH CO.
Reinsurance Services

2. Paragraph A of ARTICLE X - PERMITTED REINSURANCE - shall be deleted and the following substituted therefor:

"A. The Company is hereby granted permission to carry underlying excess of loss reinsurance for $900,000 in excess of an amount of net loss equal to the greater of $100,000 or the amount of any deductible retained by the Company's insured, each loss occurrence, any one insured; it being understood and agreed that in calculating the amount of any loss hereunder, and also in computing the amount in excess of which this Contract attaches, the net loss of the Company shall not be considered reduced by any amount or amounts recoverable thereunder."

IT IS ALSO AGREED, effective April 1, 1978, that this Contract shall be amended as follows:

1. Paragraphs B and C of ARTICLE XV - PREMIUM AND LOSS REMITTANCES (as amended by Addendum No. 1) - shall be deleted and the following substituted therefor:

"B. As promptly as possible after March 31, 1979, and after each subsequent March 31 during the currency of this Contract, the Company shall calculate the premium due for the preceding 12-month period at the rate stipulated in Article XII, and the amount, if any, by which the premium so determined is less than $570,000 United States currency or equivalent shall be remitted by the Company to the Reinsurer."

2. The following paragraph shall be added to ARTICLE XIX - INSOLVENCY:

"C. It is further understood and agreed that, in the event of insolvency of one or both of the reinsured companies, the reinsurance under this Contract shall be payable directly by the Reinsurer to the company or to its liquidator, receiver or statutory successor, except as provided by Section 315 of the New York Insurance Law or except (a) where the Contract specifically provides another payee of such reinsurance in the event of the insolvency of the company and (b) where the Reinsurer with the consent of the direct insured or insureds has assumed such policy obligations of the company as direct obligations of the Reinsurer to the payees under such policies and in substitution for the obligations of the company to such payees."

3. ARTICLE XXI - INTERMEDIARY - shall be deleted and the following substituted therefor:

"ARTICLE XXI - INTERMEDIARY

E. W. Blanch Co., Reinsurance Services, Northwestern Financial Center, 7900 Xerxes Avenue South, Minneapolis, Minnesota 55431, is hereby recognized as the intermediary by whom this Contract was negotiated and through whom all communications relating hereto (including but not limited to notices, statements, premiums, return premiums, commissions, taxes, losses, loss adjustment expenses, salvage and loss settlements) shall be transmitted to both parties. It is understood, as regards remittances due either party hereunder, that payment by the Company to E. W. Blanch Co. shall constitute payment to the Reinsurer, but payment by the Reinsurer to E. W. Blanch Co. shall only constitute payment to the Company to the extent such payments are actually received by the Company."

4. Paragraph B of ARTICLE XXVI - SERVICE OF SUIT - shall be deleted and the following substituted therefor:

"B. Service of process in such suit may be made upon Mendes & Mount, 3 Park Avenue, New York, New York 10016, and in any suit instituted against any one of them upon this Contract, the Reinsurer will abide by the final decision of such Court or of any Appellate Court in the event of an appeal."

The provisions of this Contract shall remain otherwise unchanged.

E.W. BLANCH CO.
Reinsurance Services

EXHIBIT 2

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INTERESTS AND LIABILITIES AGREEMENT

IT IS HEREBY AGREED
by and between

TRANSPORT INSURANCE COMPANY
Des Moines, Iowa
and
TICO INSURANCE COMPANY
Yonkers, New York
(hereinafter referred to collectively as the "Company")

and

CERTAIN INSURANCE COMPANIES
shown in the Signing Schedule(s) attached hereto
(hereinafter referred to as the "SUBSCRIBING REINSURER")

that the SUBSCRIBING REINSURER shall have a

48.0 %

share in the interests and liabilities of the "Reinsurer" as set forth in the attached Contract entitled:

FOURTH EXCESS CASUALTY
REINSURANCE CONTRACT
Effective: April 1, 1980

This Agreement shall become effective at April 1, 1980, and shall continue in force until terminated in accordance with the provisions of the attached Contract.

The share of the SUBSCRIBING REINSURER in the interests and liabilities of the Reinsurer with respect to said Contract shall be separate and apart from the shares of the other reinsurers and the interests and liabilities of the SUBSCRIBING REINSURER shall not be joint with those of the other reinsurers and the SUBSCRIBING REINSURER shall in no event participate in the interests and liabilities of the other reinsurers.

In the event of the failure of the SUBSCRIBING REINSURER to pay any amount claimed to be due hereunder, the SUBSCRIBING REINSURER, at the request of the Company, will submit to the jurisdiction of any court of competent jurisdiction within

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the United States and will comply with all requirements necessary to give such court jurisdiction, and all matters arising hereunder shall be determined in accordance with the law and practice of such court.

It is understood that service of process in such suit may be made upon Mendes & Mount, 3 Park Avenue, New York, New York 10016, and in any suit instituted against the SUBSCRIBING REINSURER upon this Agreement, the SUBSCRIBING REINSURER will abide by the final decision of such court or of any Appellate Court in the event of an appeal.

The above-named are authorized and directed to accept service of process on behalf of the SUBSCRIBING REINSURER in any such suit and/or upon the request of the Company to give a written undertaking to the Company that they will enter a general appearance upon behalf of the SUBSCRIBING REINSURER in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, district or territory of the United States which makes provision therefor, the SUBSCRIBING REINSURER hereon hereby designates the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Company or any beneficiary hereunder arising out of this Agreement, and hereby designates the above-named Mendes & Mount as the firm to which the said officer is authorized to mail such process or a true copy thereof.

It is further agreed that in the event the SUBSCRIBING REINSURER is subject to Federal Excise Tax, the SUBSCRIBING REINSURER will allow for the purpose of paying the Federal Excise Tax 1% of the premium payable hereon to the extent such premium is subject to Federal Excise Tax. In the event of any return premium becoming due hereunder, the SUBSCRIBING REINSURER will deduct 1% from the amount of the return and the Company or its agent should take steps to recover the Tax from the United States Government.

It is also agreed that the following Article shall apply to the SUBSCRIBING REINSURER's participation hereunder, in lieu of the provisions of ARTICLE XXIV - UNAUTHORIZED REINSURERS - of the Contract:

"ARTICLE XXIV - LOSS RESERVES (U. S. DOLLAR REINSURANCE LETTERS OF CREDIT)

(This Article is only applicable to those reinsurers who cannot qualify for credit by the state having jurisdiction over the Company's loss reserves.)

A. As regards policies or bonds issued by the Company coming within the scope of this Contract, the Company agrees that when it shall file with the Insurance Department or set up on its books reserves for losses covered hereunder which it shall be required to set up by law, it will forward to the reinsurer a statement showing the proportion of such loss reserves which is applicable to the reinsurer. The reinsurer hereby agrees that it will apply for and secure delivery to the Company of a clean irrevocable Letter of Credit issued by Citibank, N.A., in an amount equal to the reinsurer's proportion of said loss reserves.

B. The Company undertakes to use and apply any amounts which it may draw upon such Credit pursuant to the terms of the agreement under which the Letter of Credit is held, and for the following purposes only:

1. To pay the reinsurer's share or to reimburse the Company for the reinsurer's share of any liability for loss reinsured by this Contract.

2. To make refund of any sum which is in excess of the actual amount required to pay the reinsurer's share of any liability reinsured by this Contract.

Citibank, N.A., shall have no responsibility whatsoever in connection with the propriety of withdrawals made by the Company or the disposition of funds withdrawn, except to see that withdrawals are made only upon the order of properly authorized representatives of the Company."

It is also agreed that the following Article shall apply to the SUBSCRIBING REINSURER'S participation hereunder:

ARTICLE XXV - COMMUTATION

It is hereby agreed that not later than 36 months from the expiration date of each 'Policy Year' (or the termination date, if this Contract is cancelled by either party), and annually thereafter, the Company shall advise the Reinsurer of all claims involving or likely to involve periodical payments. The Reinsurer may then or at any time thereafter intimate to the Company its desire to be released from liability in respect of any one or more of such claims. In such event the Company and the Reinsurer shall mutually appoint an Actuary or Appraiser to investigate, determine and capitalise such claim or claims and the payment by the Reinsurer of its proportion of such amount shall constitute a complete and final release of the Reinsurer's liability in respect of such claim or claims.

Signed for and on behalf of the SUBSCRIBING REINSURER in the Signing Schedule(s) attached hereto.

that when it shall file with the Insurance Department or set up on its books reserves for losses covered hereunder which it shall be required to set up by law, it will forward to the reinsurer a statement showing the proportion of such loss reserves which is applicable to the reinsurer. The reinsurer hereby agrees that it will apply for and secure delivery to the Company of a clean irrevocable Letter of Credit issued by Citibank, N.A., in an amount equal to the reinsurer's proportion of said loss reserves.

B. The Company undertakes to use and apply any amounts which it may draw upon such Credit pursuant to the terms of the agreement under which the Letter of Credit is held, and for the following purposes only:

1. To pay the reinsurer's share or to reimburse the Company for the reinsurer's share of any liability for loss reinsured by this Contract.

2. To make refund of any sum which is in excess of the actual amount required to pay the reinsurer's share of any liability reinsured by this Contract.

Citibank, N.A., shall have no responsibility whatsoever in connection with the propriety of withdrawals made by the Company or the disposition of funds withdrawn, except to see that withdrawals are made only upon the order of properly authorized representatives of the Company."

Signed for and on behalf of the SUBSCRIBING REINSURER in the Signing Schedule(s) attached hereto.

Schedule(Member Companies of P.S.A.C.)

REINSURED: Transport Insurance Company
TREATY: Casualty Excess of Loss
DOCUMENTATION: Wording effective at 1st January, 1980.
SEDGWICK PAYNE LIMITED NORTH AMERICAN DIVISION

Participation	Reinsurers		Reference
5.00%	12.50% SOVEREIGN MARINE AND GENERAL INSURANCE COMPANY LIMITED 37.50% THE TOKIO MARINE & FIRE INSURANCE COMPANY (U.K.) LTD 25.00% THE TAISHO MARINE & FIRE INSURANCE COMPANY (U.K.) LTD 15.00% ALLIANZ INTERNATIONAL INSURANCE COMPANY LIMITED 10.00% STOREBRAND INSURANCE CO (U.K) LTD PER WILLIS FABER (UNDERWRITING MANAGEMENT) LIMITED	S0016	5254480
2.50%	BELLEFONTE INSURANCE COMPANY (U.K.BRANCH)	B3028	EI704652N234
3.40%	PINE TOP INSURANCE COMPANY LIMITED	P2108	EI506132N234
0.50%	34% TOWER HILL INSURANCE COMPANY LIMITED 9% CITY INSURANCE COMPANY (U.K.) LIMITED 12% FUJI FIRE & MARINE INSURANCE COMPANY (U.K.) LIMITED 9% LOMBARD INSURANCE COMPANY (U.K.) LIMITED 12% NIPPON FIRE & MARINE INSURANCE COMPANY (U.K.) LIMITED 12% POHJOLA INSURANCE COMPANY (U.K.) LIMITED 12% ENGLISH & AMERICAN INSURANCE COMPANY LIMITED Per AURORA UNDERWRITERS LIMITED	B6062	80CL95239RA
0.60%	YASUDA FIRE & MARINE INSURANCE COMPANY (U.K.) LIMITED Per LESLIE & GODWIN AGENCIES LIMITED	Y1901	052553XC02
12.00%			

FOURTH EXCESS CASUALTY REINSURANCE CONTRACT

issued to

TRANSPORT INSURANCE COMPANY
Des Moines, Iowa
and
TICO INSURANCE COMPANY
Yonkers, New York

E. W. BLANCH CO.

REINSURANCE SERVICES

Northwestern Financial Center

7900 Xerxes Avenue South

Minneapolis, Minnesota 55431

CONTENTS

FOURTH EXCESS CASUALTY
REINSURANCE CONTRACT

issued to

TRANSPORT INSURANCE COMPANY
Des Moines, Iowa
and
TICO INSURANCE COMPANY
Yonkers, New York
(hereinafter referred to collectively as the "Company")

by the

SUBSCRIBING REINSURERS SPECIFIED IN THE RESPECTIVE
INTERESTS AND LIABILITIES AGREEMENTS
ATTACHED HERETO
(hereinafter referred to as the "Reinsurer")

ARTICLE I - CLASSES OF BUSINESS REINSURED

A. By this Contract the Reinsurer agrees to indemnify the Company with respect to the net excess liability which may accrue to the Company as a result of losses occurring during the currency of this Contract under policies, contracts and binders of insurance and reinsurance (hereinafter called "policies") in force at the inception hereof or issued or renewed thereafter, and classified by the Company as:

1. Bodily Injury Liability;

2. Property Damage Liability;

3. Uninsured and Underinsured Motorists;

4. Miscellaneous Occupational, Comprehensive and Legal Liability;

5. Personal Injury Liability and Medical Payments where included with the above;

6. Garage Liability;

7. Self-insured Bonds;

8. Workmen's Compensation and Employers Liability, including Voluntary Compensation;

9. Automobile Physical Damage;

10. Inland Marine;

subject to the terms and conditions hereinafter set forth.

B. It is understood and agreed that the Motor Vehicle classes of business reinsured under this Contract are deemed to include basic and optional "No-Fault" benefits provided pursuant to the Automobile Accident Reparations Act of any state, and statutorily required coverages for nonresident drivers, following the provisions of the Company's policies when they include or are deemed to include provisions similar to ISO Endorsement A979a.

C. "Net excess liability" of the Company as used herein is defined as the amount by which the Company's net loss from any one loss occurrence, any one insured, exceeds its initial loss retention stipulated in Article V.

ARTICLE II - TERRITORY

This Contract shall apply only to losses occurring within the United States of America, its territories and possessions and Canada; but this limitation shall not apply to losses occurring within the territorial limits of the Company's original policies.

ARTICLE III - EXCLUSIONS

A. This Contract does not cover and specifically excludes the following:

1. Reinsurance assumed by the Company, except for intercompany reinsurance assumptions;

2. As regards interests which at time of loss or damage are on shore, no liability shall attach hereto in respect of any loss or damage which is occasioned by war, invasion, hostilities, acts of foreign enemies, civil war, rebellion, insurrection, military or usurped power, or martial law or confiscation by order of any government or public authority. This War Exclusion Clause shall not, however, apply to interests which at time of loss or damage are within the territorial limits of the United States of

America (comprising the Fifty States of the Union, the District of Columbia, and including bridges between the United States of America and Mexico provided they are under United States ownership), Canada, St. Pierre and Miquelon, provided such interests are insured under policies, endorsements or binders containing a standard war or hostilities or warlike operations exclusion clause.

3. Atomic energy and nuclear fission risks;

4. Nuclear energy risks as set forth in the "Nuclear Incident Exclusion Clause - Liability - Reinsurance U.S.A.," "Nuclear Incident Exclusion Clause - Liability - Reinsurance Canada," "Nuclear Incident Exclusion Clause - Physical Damage - Reinsurance U.S.A.," and "Nuclear Incident Exclusion Clause - Physical Damage - Reinsurance Canada" attached to and forming part of this Contract;

5. Business written as a participant in a Pool, Syndicate, or Association;

6. All liability of the Company arising by contract, operation of law, or otherwise, from its participation or membership, whether voluntary or involuntary, in any insolvency fund. "Insolvency fund" includes any guaranty fund, insolvency fund, plan, pool, association, fund or other arrangement, however denominated, established or governed, which provides for any assessment of or payment or assumption by the Company of part or all of any claim, debt, charge, fee or other obligation of an insurer, or its successors or assigns, which has been declared by any competent authority to be insolvent, or which is otherwise deemed unable to meet any claim, debt, charge, fee or other obligation in whole or in part.

7. Life Assurance;

8. Accident and Health Insurance;

9. Ocean Marine business, except for pleasure boats written by the Company and classified as Ocean Marine;

10. Fidelity and Surety and any form of Credit Insurance, except for Self-insured Bonds issued by the Company;

11. Financial Guarantee, Credit and Insolvency risks;

17. Aviation business, including aircraft manufacturing, but this exclusion shall not apply to liability assumed by the Company under Non-Owned Aircraft coverage;

18. Water damage legal liability, but this exclusion shall not apply to water damage legal liability covered under a motor truck cargo liability policy, or to the liability of the Company under Section 215 of the Interstate Commerce Act;

19. Security and Exchange Act liability written as such;

20. Directors and Officers liability written as such;

21. Professional and/or Professional Malpractice liability, including Errors and Omissions coverage, but this exclusion shall not apply to incidental medical malpractice to the extent that such coverage is afforded under those classifications of original policies designated in subparagraphs 4 and 5 of paragraph A of Article I.

B. With regard to the exclusions shown in subparagraphs 15 through 18 above, it is expressly understood and agreed that as respects policies issued by the Company where such excluded classifications are incidental to and/or form a minor part of the principal operations of the original risk, such policies shall not be excluded hereunder. Any such excluded classification shall be deemed incidental to and/or to form a minor part of the principal operations of the original risk if the Company's underwriter does not charge more than 10% of the total policy standard premium for coverage of the excluded classification.

C. Should the Company, by reason of an erroneous act of any agent or of any employee, be bound and assume coverage on any risk within the classes of business covered by this Contract, but specifically excluded by one or more of the exclusions set forth in subparagraphs 15 through 18 above, then such policy shall be covered hereunder, provided the Company relieves itself of the coverage assumed as quickly as possible. However, the Reinsurer's liability shall in no event exceed the limit stipulated in Article V.

ARTICLE IV - LIABILITY OF REINSURER

A. The liability of the Reinsurer shall follow that of the Company in every case, and shall be subject in all respects to all the general and special stipulations, clauses, waivers and modifications of the Company's policies, binders or other undertakings, and any endorsements thereon. No error or omission in reporting any risk reinsured hereunder shall invalidate the liability of the Reinsurer, but the reporting of reinsurance not authorized by this Contract and not authorized by special acceptance hereunder shall not bind the Reinsurer, except for return of premiums paid therefor.

B. Nothing herein shall in any manner create any obligations or establish any rights against the Reinsurer in favor of any third parties or any persons not parties to this Contract.

ARTICLE V - RETENTION AND LIMIT

A. No claim shall be made hereunder unless the Company shall have first sustained by reason of any one loss occurrence, any one insured, a net loss in excess of the greater of $1,750,000 plus the amount of any deductibe retained by the Company's insured, or $2,000,000. The Reinsurer shall then be liable for the amount of net loss in excess of the Company's retention each loss occurrence, any one insured, but the liability of the Reinsurer shall not exceed $3,000,000 any one loss occurrence, any one insured.

B. In the event of loss or losses hereunder, it is agreed that the reinsurance hereunder is reinstated automatically to the full amount, such reinstatement or reinstatements to take effect immediately upon the occurrence of such loss or losses.

ARTICLE VI - LOSS ADJUSTMENT EXPENSES

A. The term "loss adjustment expenses" shall mean all expenses incurred by the Company in the investigation, appraisal, adjustment, litigation and defense of claims (including court costs and interest where classified as expense) but excluding the Company's office expenses and the salaries of its regular employees.

B. Loss adjustment expenses, where incurred by the Company in connection with claims in which this reinsurance is involved, shall be apportioned between the Company and

the Reinsurer in proportion to their respective shares of the net loss as finally determined, except that expenses incurred in obtaining salvages or recoveries, or in the reduction or reversal of any award or judgment, shall be apportioned between the Company and the Reinsurer in the proportion that each benefits from such salvage, recovery, reduction or reversal. The Reinsurer's share of loss adjustment expenses shall be in addition to its limit of liability stipulated in Article V.

ARTICLE VII - LOSS IN EXCESS OF POLICY LIMITS

A. In the event the Company pays or is held liable to pay an amount of loss in excess of its policy limit because of alleged or actual bad faith, fraud or negligence on its part in rejecting a settlement within the applicable limits of its policy, or in discharging its duty to defend or prepare the defense in the trial of an action against its policyholder (including its duty to prepare or prosecute an appeal consequent upon such an action), 100% of the loss in excess of the Company's policy limit shall be added to the amount of the Company's policy limit and sum thereof shall be subject to the terms of this Contract; provided, however, that in no event shall any consequential and/or punitive damages awarded the policyholder against the Company in respect of any claim be recoverable from the Reinsurer unless the Company shall have counseled with the Reinsurer and afforded the Reinsurer an opportunity to be associated with the Company in the defense or control of such claim, prior to or at the time of the trial which resulted in the judgment in excess of the applicable policy limit.

B. No out-of-court settlement of claims the subject matter of this Article shall be made by the Company without the consent of the Reinsurer.

C. Recoveries from any form of insurance or other reinsurance which protects the Company against claims the subject matter of this Article shall inure to the benefit of the Reinsurer.

ARTICLE VIII - DEFINITION OF NET LOSS

A. The term "net loss" is defined as the ultimate net loss incurred by the Company, plus the amount of any deductible of $10,000 or more retained by the Company's insured, plus interest where classified as loss, but excluding loss adjustment expenses.

B. All salvages and recoveries, including amounts recoverable from other reinsurances (except underlying excess of loss reinsurances), whether collectible or not, shall be first deducted from such loss to arrive at the amount of liability, if any, attaching hereunder. All salvages, recoveries or payments recovered or received subsequent to any loss settlement hereunder shall be applied as if recovered or received prior to the respective settlement, and all necessary adjustments shall be made by the parties hereto.

C. Nothing in this Article shall be construed to mean that losses are not recoverable hereunder until the Company's ultimate net loss has been ascertained.

ARTICLE IX - DEFINITION OF LOSS OCCURRENCE

The term "loss occurrence" as used herein is defined as any one accident or occurrence, or series of accidents or occurrences arising out of one event. Without limiting the generality of the foregoing, the same shall be held to include:

1. As respects Products Bodily Injury Liability and Products Property Damage Liability, all loss or losses included under the definition of occurrence as set forth in the Company's original policies;

2. As respects Bodily Injury Liability other than Products, all claims against any one insured for all injuries to one or more than one person resulting from infection, contagion, poisoning, or contamination proceeding from or traceable to, the same causative agency;

3. As respects Property Damage Liability other than Automobile and Products, all loss or losses caused by a series of operations, events or occurrences arising out of operations at any one specific site which cannot be attributed to any single one of such operations, events or occurrences, but rather to the cumulative effect thereof;

4. As respects Workmen's Compensation and Employers Liability, an occupational or other disease suffered by an employee, which disease arises out of the employment, and for which the employer is liable. However, in case the Company shall, within a policy year and the terms of this Contract, sustain several losses arising out of such an occupational or other

disease of one specific kind or class, suffered by several employees of one insured, such losses shall be deemed to arise out of one occurrence. A loss as respects such occupational or other disease shall be deemed to have occurred on the date when compensable disability of the first such employee commenced and at no other date.

ARTICLE X - PERMITTED REINSURANCE

A. The Company is hereby granted permission to carry underlying excess of loss reinsurance for $1,750,000 in excess of an amount of net loss equal to the greater of $250,000 or the amount of any deductible retained by the Company's insured, each loss occurrence, any one insured; it being understood and agreed that in calculating the amount of any loss hereunder, and also in computing the amount in excess of which this Contract attaches, the net loss of the Company shall not be considered reduced by any amount or amounts recoverable thereunder.

B. The Company is hereby permitted to place reinsurance outside of this Contract whenever, in its judgment, it is desirable to do so.

ARTICLE XI - WARRANTY

The Company warrants that it will retain net at least the primary $250,000 referred to in paragraph A of Article X above (which figure includes self-insured deductibles of $10,000 or more).

ARTICLE XII - PREMIUM

A. As premium for the reinsurance provided under this Contract, the Company shall pay to the Reinsurer .80% of its subject net earned premiums during the currency of this Contract, subject to the minimum premium stipulated in Article XV.

B. The term "subject net earned premiums" of the Company as used herein is defined as the total net premiums (i.e., gross premiums, less cancellations and return premiums, less inuring reinsurance premiums) earned by the Company during the currency of this Contract on the classes of business covered hereunder, after deduction of premiums applying to risks, perils and classes of risk excluded specifically in Article III hereof. It is specially agreed that subject net earned premiums shall not include retrospective deficit or credit premiums, Stop Loss

Protection (Maximum Premium Limitation) premiums, or that portion of premiums considered commissions payable by the Company. All calculations of unearned premiums shall be made on the semimonthly pro rata basis.

ARTICLE XIII - LOSS SETTLEMENTS

The Reinsurer agrees to abide by the loss settlements of the Company, it being understood, however, that when so requested, the Company will afford the Reinsurer an opportunity to be associated with the Company, at the expense of the Reinsurer, in the defense or control of any claim or suit or proceeding involving this reinsurance and that the Company will cooperate in every respect in the defense or control of such claim, suit or proceeding.

ARTICLE XIV - PREMIUM AND LOSS REPORTS

A. Within 45 days after the end of each month during the currency of this Contract the Company shall furnish a statement to the Reinsurer setting forth by major class, United States and Canadian separately, its subject net earned premiums for the month and the reinsurance premium due hereunder.

B. The Company shall give prompt notice to the Reinsurer on all claims reserved in excess of $1,000,000, and on all losses which, in the judgment of the Company, could result in a claim involving reinsurance hereunder. Also, the Company shall advise the Reinsurer of all subsequent developments pertaining to such claims or losses if, in the opinion of the Company, such developments might materially affect the position of the Reinsurer.

ARTICLE XV - PREMIUM AND LOSS REMITTANCES

A. Within 45 days after the end of each month during the currency of this Contract, the balance of premiums due hereunder and losses claimed hereunder shall be paid by the debtor party to the creditor party. It is agreed, however, that any one loss hereunder exceeding $50,000 shall be paid immediately by the Reinsurer upon receipt of an individual proof of loss.

B. As promptly as possible after March 31, 1981, and after each subsequent March 31 during the currency of this Contract, the Company shall calculate the premium due for the preceding 12-month period at the rate stipulated in Article XII, and the amount, if any, by which the premium so determined is less than $825,000 United States currency or equivalent shall be remitted by the Company to the Reinsurer.

ARTICLE XVI - CURRENCY

The provisions of this Contract involving dollar amounts are expressed in United States currency as respects policies issued by the Company in United States currency, and in Canadian currency as respects policies issued by the Company in Canadian currency. Premiums and losses hereunder involving Canadian currency shall be reported separately, and shall be settled in Canadian currency.

ARTICLE XVII - ERRORS AND OMISSIONS

The position of the Company shall not be prejudiced by any error or omission in reporting premiums or losses under this Contract, or in claiming losses recoverable hereunder. Any such errors or omissions shall, however, be corrected upon discovery.

ARTICLE XVIII - ACCESS TO RECORDS

The Reinsurer, by its duly appointed representatives, shall have the right at any reasonable time to examine all papers in the possession of the Company referring to business effected hereunder.

ARTICLE XIX - INSOLVENCY

A. In the event of the insolvency of one or both of the reinsured companies, this reinsurance shall be payable directly to the company or to its liquidator, receiver, conservator or statutory successor on the basis of the liability of the company without diminution because of the insolvency of the company or because the liquidator, receiver, conservator or statutory successor of the company has failed to pay all or a portion of any claim. It is agreed, however, that the liquidator, receiver, conservator or statutory successor of the company shall give written notice to the Reinsurer of the pendency of a claim against the company indicating the policy or bond reinsured which claim would involve a possible liability on the part of the Reinsurer within a reasonable time after such claim is filed in the conservation or liquidation proceeding or in the receivership, and that during the pendency of such claim, the Reinsurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses that it may deem available to the company or its liquidator, receiver, conservator or statutory successor. The expense thus incurred by the Reinsurer shall be chargeable, subject

to the approval of the Court, against the company as part of the expense of conservation or liquidation to the extent of a pro rata share of the benefit which may accrue to the company solely as a result of the defense undertaken by the Reinsurer.

B. Where two or more reinsurers are involved in the same claim and a majority in interest elect to interpose defense to such claim, the expense shall be apportioned in accordance with the terms of this Contract as though such expense had been incurred by the company.

C. It is further understood and agreed that, in the event of the insolvency of one or both of the reinsured companies, the reinsurance under this Contract shall be payable directly by the Reinsurer to the company or to its liquidator, receiver or statutory successor, except as provided by Section 315 of the New York Insurance Law or except (a) where the Contract specifically provides another payee of such reinsurance in the event of the insolvency of the company and (b) where the Reinsurer with the consent of the direct insured or insureds has assumed such policy obligations of the company as direct obligations of the Reinsurer to the payees under such policies and in substitution for the obligations of the company to such payees.

ARTICLE XX - ARBITRATION

A. Any dispute or other matter in question arising between the Company and any of the reinsurers out of or relating to the interpretation, performance, or breach of this Contract shall be settled by arbitration. Arbitration shall be initiated by the delivery of a written notice of demand for arbitration by one party to the other within a reasonable time after the dispute has arisen. Those reinsurers involved in the dispute or other matter in controversy shall be considered as one party for the purpose of allocating the cost of the arbitration.

B. Each party shall appoint an individual as arbitrator and the two so appointed shall then appoint a third arbitrator. If either party refuses or neglects to appoint an arbitrator within sixty days, the other party may appoint the second arbitrator. If the two arbitrators do not agree on a third arbitrator within sixty days of their appointment, each of the arbitrators shall nominate three individuals. Each arbitrator shall then decline two of the nominations presented by the other arbitrator.

The third arbitrator shall then be chosen from the remaining two nominations by drawing lots. The arbitrators shall be active or retired officers of insurance or reinsurance companies, or Lloyd's London Underwriters; the arbitrators shall not have a personal or financial interest in the result of the arbitration.

C. The arbitration hearings shall be held in Dallas, Texas or such other place as may be mutually agreed. Each party shall submit its case to the arbitrators within sixty days of the selection of the third arbitrator or within such longer period as may be agreed by the arbitrators. The arbitrators shall not be obliged to follow judicial formalities or the rules of evidence except to the extent required by governing law, that is, the state law of the sites of the arbitration as herein agreed; they shall make their decisions according to the practice of the reinsurance business. The decision rendered by a majority of the arbitrators shall be final and binding upon both parties. Such decision shall be a condition precedent to any right of legal action arising out of the arbitrated dispute which either party may have against the other. Judgment upon the award rendered may be entered in any court having jurisdiction thereof.

D. Each party shall pay the fee and expenses of its own arbitrator and one-half of the fee and expense of the third arbitrator. All other expenses of the arbitration shall be equally divided between the parties.

E. Except as provided above, arbitration shall be based insofar as applicable, upon the procedures of the American Arbitration Association.

ARTICLE XXI - INTERMEDIARY

E. W. Blanch Co., Reinsurance Services, Northwestern Financial Center, 7900 Xerxes Avenue South, Minneapolis, Minnesota 55431, is hereby recognized as the intermediary by whom this Contract was negotiated and through whom all communications relating hereto (including but not limited to notices, statements, premiums, return premiums, commissions, taxes, losses, loss adjustment expenses, salvage and loss settlements) shall be transmitted to both parties. It is understood, as regards remittances due either party hereunder, that payment by the Company to E. W. Blanch Co. shall constitute payment to the Reinsurer, but payment by the Reinsurer to E. W. Blanch Co. shall only constitute payment to the Company to the extent such payments are actually received by the Company.

U.S.A.

NUCLEAR INCIDENT EXCLUSION CLAUSE—LIABILITY—REINSURANCE

(Approved by Lloyd's Underwriters' Fire and Non-Marine Association)

(1) This reinsurance does not cover any loss or liability accruing to the Reassured as a member of, or subscriber to, any association of insurers or reinsurers formed for the purpose of covering nuclear energy risks or as a direct or indirect reinsurer of any such member, subscriber or association.

(2) Without in any way restricting the operation of paragraph (1) of this Clause it is understood and agreed that for all purposes of this reinsurance all the original policies of the Reassured (new, renewal and replacement) of the classes specified in Clause II of this paragraph (2) from the time specified in Clause III in this paragraph (2) shall be deemed to include the following provision (specified as the Limited Exclusion Provision):

Limited Exclusion Provision.*

I. It is agreed that the policy does not apply under any liability coverage, to *injury, sickness, disease, death or destruction* / bodily injury or property damage with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability.

II. Family Automobile Policies (liability only), Special Automobile Policies (private passenger automobiles, liability only), Farmers Comprehensive Personal Liability Policies (liability only), Comprehensive Personal Liability Policies (liability only) or policies of a similar nature; and the liability portion of combination forms related to the four classes of policies stated above, such as the Comprehensive Dwelling Policy and the applicable types of Homeowners Policies.

III. The inception dates and thereafter of all original policies as described in II above, whether new, renewal or replacement, being policies which either

(a) become effective on or after 1st May, 1960, or

(b) become effective before that date and contain the Limited Exclusion Provision set out above;

provided this paragraph (2) shall not be applicable to Family Automobile Policies, Special Automobile Policies, or policies or combination policies of a similar nature, issued by the Reassured on New York risks, until 90 days following approval of the Limited Exclusion Provision by the Governmental Authority having jurisdiction thereof.

(3) Except for those classes of policies specified in Clause II of paragraph (2) and without in any way restricting the operation of paragraph (1) of this Clause, it is understood and agreed that for all purposes of this reinsurance the original liability policies of the Reassured (new, renewal and replacement) affording the following coverages:

Owners, Landlords and Tenants Liability, Contractual Liability, Elevator Liability, Owners or Contractors (including railroad) Protective Liability, Manufacturers and Contractors Liability, Product Liability, Professional and Malpractice Liability, Storekeepers Liability, Garage Liability, Automobile Liability (including Massachusetts Motor Vehicle or Garage Liability)

shall be deemed to include, with respect to such coverages, from the time specified in Clause V of this paragraph (3), the following provision (specified as the Broad Exclusion Provision):

Broad Exclusion Provision.*

It is agreed that the policy does not apply:

I. Under any Liability Coverage, to *injury, sickness, disease, death or destruction* / bodily injury or property damage

(a) with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

II. Under any Medical Payments Coverage, or under any Supplementary Payments Provision relating to *immediate medical or surgical relief*, / first aid, to expenses incurred with respect to *bodily injury, sickness, disease or death* / bodily injury resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

III. Under any Liability Coverage, to *injury, sickness, disease, death or destruction* / bodily injury or property damage resulting from the hazardous properties of nuclear material, if

(a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;

(b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or

(c) the *injury, sickness, disease, death or destruction* / bodily injury or property damage arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories, or possessions or Canada, this exclusion (c) applies only to *injury to or destruction of property at such nuclear facility.* / property damage to such nuclear facility and any property thereat.

IV. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties; "nuclear material" means source material, special nuclear material or byproduct material; "source material", "special nuclear material", and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof; "spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor; "waste" means any waste material (1) containing byproduct material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof; "nuclear facility" means

(a) any nuclear reactor,

(b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling processing or packaging waste,

(c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations; "nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

With respect to injury to or destruction of property, the word "injury" or "destruction" / "property damage" includes all forms of radioactive contamination of property. / *includes all forms of radioactive contamination of property.*

V. The inception dates and thereafter of all original policies affording coverages specified in this paragraph (3), whether new, renewal or replacement, being policies which become effective on or after 1st May, 1960, provided this paragraph (3) shall not be applicable to

(i) Garage and Automobile Policies issued by the Reassured on New York risks, or

(ii) statutory liability insurance required under Chapter 90, General Laws of Massachusetts,

until 90 days following approval of the Broad Exclusion Provision by the Governmental Authority having jurisdiction thereof.

(4) Without in any way restricting the operation of paragraph (1) of this Clause, it is understood and agreed that paragraphs (2) and (3) above are not applicable to original liability policies of the Reassured in Canada and that with respect to such policies this Clause shall be deemed to include the Nuclear Energy Liability Exclusion Provisions adopted by the Canadian Underwriters' Association or the Independent Insurance Conference of Canada.

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*NOTE. The words printed in italics in the Limited Exclusion Provision and in the Broad Exclusion Provision shall apply only in relation to original liability policies which include a Limited Exclusion Provision or a Broad Exclusion Provision containing those words.

21/9/67
N.M.A. 1590

NUCLEAR INCIDENT EXCLUSION CLAUSE - LIABILITY - REINSURANCE CANADA

1. This reinsurance does not cover any loss or liability accruing to the Company as a member of, or subscriber to, any association of insurers or reinsurers formed for the purpose of covering nuclear energy risks or as a direct or indirect reinsurer of any such member, subscriber, or association.

2. Without in any way restricting the operation of paragraph 1 of this clause it is agreed that for all purposes of this reinsurance all the original liability contracts of the Company, whether new, renewal or replacement, of the following classes, namely,

Personal Liability,
Farmers Liability,
Storekeepers Liability,

Which become effective on or after 31st December 1962, shall be deemed to include, from their inception dates and thereafter, the following provision: --

LIMITED EXCLUSION PROVISION

This Agreement does not apply to injury, sickness, disease, death damage or destruction with respect to which an insured under this Agreement is also insured under a contract or nuclear energy liability insurance (whether the insured is named in such Agreement or not and whether or not it is legally enforceable by the insured) issued by the Nuclear Insurance Association of Canada or any other group or pool of insurers or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability.

With respect to property, loss of use of such property shall be deemed to be damage to or destruction of property.

3. Without in any way restricting the operation of paragraph 1 of this clause it is agreed that for all purposes of this reinsurance all the original liability contracts of the Company, whether new, renewal or replacement, of any class whatsoever (other than personal liability, farmers liability, storekeepers liability or automobile liability contracts), which become effective on or after 31st December 1962, shall be deemed to include, from their inception dates and thereafter, the following provision: -

BROAD EXCLUSION PROVISION: -

This Agreement does not apply to injury, sickness, disease, death, damage or destruction

(A) With respect to which an insured under this Agreement is also insured under a contract of nuclear energy liability insurance (whether

the insured is named in such contract or not and whether or not is is legally enforceable by the insured) issued by the Nuclear Insurance Association of Canada or any other group or pool or insurers or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability: or

(B) Resulting directly or indirectly from the nuclear energy hazard arising from:

(1) The ownership, maintenance, operation or use of a nuclear facility by or on behalf of an insured:

(2) The furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility; and

(3) The transportation, consumption, possession, handling, disposal or use of radioactive material (other than radioisotopes away from a nuclear facility) sold, handled, used or distributed by an insured.

As used in this Endorsement:

(I) The term "Nuclear Energy Hazard" means the radioactive, toxic, explosive or other hazardous properties of radioactive material;

(II) The term "Radioactive Material" means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances that the Atomic Energy Control Board may, by regulation, designate as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy;

(III) The term "Nuclear Facility" means:

(A) Any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium and uranium or any one or more of them;

(B) Any equipment or device designed or used for (I) separating the isotopes of plutonium, thorium and uranium or any one or more of them, (II) processing

U.S.A.

NUCLEAR INCIDENT EXCLUSION CLAUSE—PHYSICAL DAMAGE—REINSURANCE

1. This Reinsurance does not cover any loss or liability accruing to the Reassured, directly or indirectly and whether as Insurer or Reinsurer, from any Pool of Insurers or Reinsurers formed for the purpose of covering Atomic or Nuclear Energy risks.

2. Without in any way restricting the operation of paragraph (1) of this Clause, this Reinsurance does not cover any loss or liability accruing to the Reassured, directly or indirectly and whether as Insurer or Reinsurer, from any insurance against Physical Damage (including business interruption or consequential loss arising out of such Physical Damage) to:

I. Nuclear reactor power plants including all auxiliary property on the site, or

II. Any other nuclear reactor installation, including laboratories handling radioactive materials in connection with reactor installations, and " critical facilities " as such, or

III. Installations for fabricating complete fuel elements or for processing substantial quantities of " special nuclear material ", and for reprocessing, salvaging, chemically separating, storing or disposing of " spent " nuclear fuel or waste materials, or

IV. Installations other than those listed in paragraph (2) III above using substantial quantities of radioactive isotopes or other products of nuclear fission.

3. Without in any way restricting the operations of paragraphs (1) and (2) hereof, this Reinsurance does not cover any loss or liability by radioactive contamination accruing to the Reassured, directly or indirectly, and whether as Insurer or Reinsurer, from any insurance on property which is on the same site as a nuclear reactor power plant or other nuclear installation and which normally would be insured therewith except that this paragraph (3) shall not operate

(a) where Reassured does not have knowledge of such nuclear reactor power plant or nuclear installation, or

(b) where said insurance contains a provision excluding coverage for damage to property caused by or resulting from radioactive contamination, however caused. However on and after 1st January 1960 this sub-paragraph (b) shall only apply provided the said radioactive contamination exclusion provision has been approved by the Governmental Authority having jurisdiction thereof.

4. Without in any way restricting the operations of paragraphs (1), (2) and (3) hereof, this Reinsurance does not cover any loss or liability by radioactive contamination accruing to the Reassured, directly or indirectly, and whether as Insurer or Reinsurer, when such radioactive contamination is a named hazard specifically insured against.

5. It is understood and agreed that this Clause shall not extend to risks using radioactive isotopes in any form where the nuclear exposure is not considered by the Reassured to be the primary hazard.

6. The term " special nuclear material " shall have the meaning given it in the Atomic Energy Act of 1954 or by any law amendatory thereof.

7. Reassured to be sole judge of what constitutes:

(a) substantial quantities, and

(b) the extent of installation, plant or site.

Note.—Without in any way restricting the operation of paragraph (1) hereof, it is understood and agreed that

(a) all policies issued by the Reassured on or before 31st December 1957 shall be free from the application of the other provisions of this Clause until expiry date or 31st December 1960 whichever first occurs whereupon all the provisions of this Clause shall apply.

(b) with respect to any risk located in Canada policies issued by the Reassured on or before 31st December 1958 shall be free from the application of the other provisions of this Clause until expiry date or 31st December 1960 whichever first occurs whereupon all the provisions of this Clause shall apply

NUCLEAR INCIDENT EXCLUSION CLAUSE - PHYSICAL DAMAGE - REINSURANCE CANADA

1. This Agreement does not cover any loss or liability accruing to the Company, directly or indirectly, and whether as insurer or reinsurer, from any pool of insurers or reinsurers formed for the purpose of covering atomic or Nuclear Energy Risks.

2. Without in any way restricting the operation of paragraph 1 of this clause, this Agreement does not cover any loss or liability accruing to the Company, directly or indirectly, and whether as insurer or reinsurer, from any insurance against physical damage (including business interruption or consequential loss arising out of such physical damage) to:

(A) Nuclear reactor power plants including all auxiliary property on the site, or

(B) Any other nuclear reactor installation, including laboratories handling radioactive materials in connection with reactor installations, and critical facilities as such, or

(C) Installations for fabricating complete fuel elements or for processing substantial quantities of prescribed substances, and for reprocessing, salvaging, chemically separating, storing or disposing of spent nuclear fuel or waste materials, or

(D) Installations other than those listed in (C) above using substantial quantities of radioactive isotopes or other products of nuclear fission.

3. Without in any way restricting the operation of paragraphs 1 and 2 of this clause, this Agreement does not cover any loss or liability by radioactive contamination accruing to the Company, directly or indirectly, and whether as insurer or reinsurer from any insurance on property which is on the same site as a nuclear reactor power plant or other nuclear installations and which normally would be insured therewith, except that this paragraph 3 shall not operate:

(A) Where the Company does not have knowledge of such nuclear reactor power plant or nuclear installation, or

(B) Where the said insurance contains a provision excluding coverage for damage to property caused by or resulting from radioactive contamination, however caused.

4. Without in any way restricting the operation of paragraphs 1, 2 and 3 of this clause, this Agreement does not cover any loss or liability by radioactive contamination accruing to the Company,

directly or indirectly, and whether as insurer or reinsurer, when such radioactive contamination is a named hazard specifically insured against.

5. This clause shall not extend to risks using radioactive isotopes in any form where the nuclear exposure is not considered by the Company to be the primary hazards.

6. The term "prescribed substances" shall have the meaning given it by the Atomic Energy Control Act R.S.C..1946 C. 37 or by any law amendatory thereof.

7. Company to be sole judge of what constitutes:

(A) Substantial quantities, and

(B) The extent of installation, plant or site.

NOTE: Without in any way restricting the operation of paragraph 1 of this clause, it is agreed that policies issued by the Company effective on or before 31st December 1958 shall be free from the application of the other provisions of this clause until expiry date or 31st December 1961, whichever first occurs, whereupon all the provisions of this clause shall apply.

Schedule

REINSURED: Transport Insurance Company
TREATY: Casualty Excess of Loss
DOCUMENTATION: Wording effective at 1st January, 1980.
SEDGWICK PAYNE LIMITED NORTH AMERICAN DIVISION

Participation	Reinsurers	Reference
	Signed LONDON this 14th day of FEBRUARY 1983 For and on behalf of:	
4.50%	DOMINION INSURANCE COMPANY LIMITED	123097
4.50%		

POLICY NO 110130063

EXHIBIT 3

BMT 418

4844-05501
BJ 1050004

INTERESTS AND LIABILITIES AGREEMENT

IT IS HEREBY AGREED
by and between

TRANSPORT INSURANCE COMPANY
Des Moines, Iowa
and
TICO INSURANCE COMPANY
Yonkers, New York
(hereinafter referred to as the "Company")

and

CERTAIN UNDERWRITING MEMBERS OF LLOYD'S
shown in the Signing Schedule attached hereto
(hereinafter referred to as the "SUBSCRIBING REINSURER")

that the SUBSCRIBING REINSURER shall have a

42.11 %

share in the interests and liabilities of the "Reinsurer" as set forth in the attached Contract entitled:

FIFTH EXCESS CASUALTY
REINSURANCE CONTRACT
Effective: April 1, 1980

This Agreement shall become effective at April 1, 1980, and shall continue in force until terminated in accordance with the provisions of the attached Contract.

The share of the SUBSCRIBING REINSURER in the interests and liabilities of the Reinsurer with respect to said Contract shall be separate and apart from the shares of the other reinsurers and the interests and liabilities of the SUBSCRIBING REINSURER shall not be joint with those of the other reinsurers and the SUBSCRIBING REINSURER shall in no event participate in the interests and liabilities of the other reinsurers.

In the event of the failure of the SUBSCRIBING REINSURER to pay any amount claimed to be due hereunder, the SUBSCRIBING REINSURER, at the request of the Company, will submit to the jurisdiction of any court of competent jurisdiction within the United States and will comply with all requirements necessary to give such court jurisdiction, and all

matters arising hereunder shall be determined in accordance with the law and practice of such court.

It is understood that service of process in such suit may be made upon Mendes & Mount, 3 Park Avenue, New York, New York 10016, and in any suit instituted against the SUBSCRIBING REINSURER upon this Agreement, the SUBSCRIBING REINSURER will abide by the final decision of such court or of any Appellate Court in the event of an appeal.

The above-named are authorized and directed to accept service of process on behalf of the SUBSCRIBING REINSURER in any such suit and/or upon the request of the Company to give a written undertaking to the Company that they will enter a general appearance upon behalf of the SUBSCRIBING REINSURER in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, district or territory of the United States which makes provision therefor, the SUBSCRIBING REINSURER hereon hereby designates the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Company or any beneficiary hereunder arising out of this Agreement, and hereby designates the above-named Mendes & Mount as the firm to which the said officer is authorized to mail such process or a true copy thereof.

It is further agreed that the following Article shall apply to the SUBSCRIBING REINSURER's participation hereunder, in lieu of the provisions of ARTICLE XXIV - UNAUTHORIZED REINSURERS - of the Contract:

"ARTICLE XXIV - LOSS RESERVES (U. S. DOLLAR REINSURANCE LETTERS OF CREDIT)

(This Article is only applicable to those reinsurers who cannot qualify for credit by the state having jurisdiction over the Company's loss reserves.)

A. As regards policies or bonds issued by the Company coming within the scope of this Contract, the Company agrees that when it shall file with the Insurance Department or set up on its books reserves for losses covered hereunder which it shall be required to set up by law, it will forward to the reinsurer a statement showing the proportion of such loss reserves which is applicable to the

reinsurer. The reinsurer hereby agrees that it will apply for and secure delivery to the Company of a clean irrevocable Letter of Credit issued by Citibank, N.A., in an amount equal to the reinsurer's proportion of said loss reserves.

B. The Company undertakes to use and apply any amounts which it may draw upon such Credit pursuant to the terms of the agreement under which the Letter of Credit is held, and for the following purposes only:

1. To pay the reinsurer's share or to reimburse the Company for the reinsurer's share of any liability for loss reinsured by this Contract.

2. To make refund of any sum which is in excess of the actual amount required to pay the reinsurer's share of any liability reinsured by this Contract.

Citibank, N.A., shall have no responsibility whatsoever in connection with the propriety of withdrawals made by the Company or the disposition of funds withdrawn, except to see that withdrawals are made only upon the order of properly authorized representatives of the Company."

It is also agreed that the following Article shall apply to the SUBSCRIBING REINSURER'S participation hereunder:

ARTICLE XXV - COMMUTATION

It is hereby agreed that not later than 36 months from the expiration date of each 'Policy Year' (or the termination date, if this Contract is cancelled by either party), and annually thereafter, the Company shall advise the Reinsurer of all claims involving or likely to involve periodical payments. The Reinsurer may then or at any time thereafter intimate to the Company its desire to be released from liability in respect of any one or more of such claims. In such event the Company and the Reinsurer shall mutually appoint an Actuary or Appraiser to investigate, determine and capitalise such claim or claims and the payment by the Reinsurer of its proportion of such amount shall constitute a complete and final release of the Reinsurer's liability in respect of such claim or claims.

Signed for and on behalf of the SUBSCRIBING REINSURER in the Signing Schedule attached hereto.

POLICY NO. 8MT418

Schedule

REINSURED: Transport Insurance Company
TREATY: Casualty Excess of Loss
DOCUMENTATION: Wording Effective at 1st January, 1980.
SEDGWICK PAYNE LIMITED NORTH AMERICAN DIVISION

Participation	Reinsurers	Reference
42.11%	UNDERWRITING MEMBERS OF LLOYD'S	

Now Know Ye that We the Underwriters, Members of the Syndicates whose definitive numbers in the after-mentioned List of Underwriting Members of Lloyd's are set out in the attached Table, hereby bind ourselves each for his own part and not one for another, our Heirs, Executors and Administrators, and in respect of his due proportion only, to pay or make good to the Assured or to the Assured's Executors or Administrators or to indemnify him or them against all such loss, damage or liability as herein provided, such payment to be made after such loss, damage or liability is proved and the due proportion for which each of us, the Underwriters, is liable shall be ascertained by reference to his share, as shown in the said List, of the Amount, Percentage or Proportion of the total sum insured hereunder which is in the Table set opposite the definitive number of the Syndicate of which such Underwriter is a Member AND FURTHER THAT the List of Underwriting Members of Lloyd's referred to above shows their respective Syndicates and Shares therein, is deemed to be incorporated in and to form part of this policy, bears the number specified in the attached Table and is available for inspection at Lloyd's Policy Signing Office by the Assured or his or their representatives and a true copy of the material parts of the said List certified by the General Manager of Lloyd's Policy Signing Office will be furnished to the Assured on application.

In Witness whereof the General Manager of Lloyd's Policy Signing Office has subscribed his name on behalf of each of us.

(NM)

LLOYD'S POLICY SIGNING OFFICE.

General Manager.

Definitive Numbers of Syndicates and Amount, Percentage or Proportion of the Total Sum insured hereunder shared between the Members of those Syndicates.

FOR LPSO USE ONLY: CPD33R 1502 2805 | BROKER: 686 | LPSO NO. & DATE: 62612 29| 5|80 | PAGE 1

AMOUNT, PERCENTAGE OR PROPORTION	SYNDICATE	UNDERWRITER'S REF.
PERCENT		
4.53	605	12758
4.62	618	NA6245917M09
0.85	278	NA6245917M09
1.32	948	NA6245917M09
5.89	799	MT70270048
4.53	918	9425213M0081
2.26	553	EWTF900416
1.81	126	51397343XA80
0.45	701	51397343XA80
1.81	56	X24A5155X
1.36	582	223E9999111N
0.45	226	223E9999000N
0.77	408	N0187B24M014
0.14	99	N0187B24M014
0.91	205	0884XXB9999
0.45	365	24M0847

TOTAL LINE | NO. OF SYND. | FOR LPSO USE ONLY

FOR LPSO USE ONLY: 2806 | BROKER: 686 | LPSO NO. & DATE: 62612 29| 5|80 | PAGE 2

AMOUNT, PERCENTAGE OR PROPORTION	SYNDICATE	UNDERWRITER'S REF.
PERCENT		
1.36	452	204
3.62	190	8041T02450
1.81	227	01041BSQ029X
2.26	509	T25206616
0.91	471	AXX501

THE LIST OF UNDERWRITING MEMBERS OF LLOYDS IS NUMBERED 1980/ 5

TOTAL LINE: 42.11 | NO. OF SYND.: 21 | FOR LPSO USE ONLY: 5S 9336

L.P.S.O. 20

LLOYD'S POLICY SIGNING OFFICE EMBOSSMENT APPEARS HERE ON ORIGINAL DOCUMENT

FIFTH EXCESS CASUALTY REINSURANCE CONTRACT

issued to

TRANSPORT INSURANCE COMPANY
Des Moines, Iowa
and
TICO INSURANCE COMPANY
Yonkers, New York

E. W. BLANCH CO.

REINSURANCE SERVICES

Northwestern Financial Center

7900 Xerxes Avenue South

Minneapolis, Minnesota 55431

CONTENTS

FIFTH EXCESS CASUALTY
REINSURANCE CONTRACT

issued to

TRANSPORT INSURANCE COMPANY
Des Moines, Iowa
and
TICO INSURANCE COMPANY
Yonkers, New York
(hereinafter referred to collectively as the "Company")

by the

SUBSCRIBING REINSURERS SPECIFIED IN THE RESPECTIVE INTERESTS AND LIABILITIES AGREEMENTS ATTACHED HERETO
(hereinafter referred to as the "Reinsurer")

ARTICLE I - CLASSES OF BUSINESS REINSURED

A. By this Contract the Reinsurer agrees to indemnify the Company with respect to the net excess liability which may accrue to the Company as a result of losses occurring during the currency of this Contract under policies, contracts and binders of insurance and reinsurance (hereinafter called "policies") in force at the inception hereof or issued or renewed thereafter, and classified by the Company as:

1. Bodily Injury Liability;

2. Property Damage Liability;

3. Uninsured and Underinsured Motorists;

4. Miscellaneous Occupational, Comprehensive and Legal Liability;

5. Personal Injury Liability and Medical Payments where included with the above;

6. Garage Liability;

7. Self-insured Bonds;

8. Workmen's Compensation and Employers Liability, including Voluntary Compensation;

9. Automobile Physical Damage;

10. Inland Marine;

subject to the terms and conditions hereinafter set forth.

B. It is understood and agreed that the Motor Vehicle classes of business reinsured under this Contract are deemed to include basic and optional "No-Fault" benefits provided pursuant to the Automobile Accident Reparations Act of any state, and statutorily required coverages for nonresident drivers, following the provisions of the Company's policies when they include or are deemed to include provisions similar to ISO Endorsement A979a.

C. "Net excess liability" of the Company as used herein is defined as the amount by which the Company's net loss from any one loss occurrence, any one insured, exceeds its initial loss retention stipulated in Article V.

ARTICLE II - TERRITORY

This Contract shall apply only to losses occurring within the United States of America, its territories and possessions and Canada; but this limitation shall not apply to losses occurring within the territorial limits of the Company's original policies.

ARTICLE III - EXCLUSIONS

A. This Contract does not cover and specifically excludes the following:

1. Reinsurance assumed by the Company, except for intercompany reinsurance assumptions;

2. As regards interests which at time of loss or damage are on shore, no liability shall attach hereto in respect of any loss or damage which is occasioned by war, invasion, hostilities, acts of foreign enemies, civil war, rebellion, insurrection, military or usurped power, or martial law or confiscation by order of any government or public authority. This War Exclusion Clause shall not, however, apply to interests which at time of loss or damage are within the territorial limits of the United States of

America (comprising the Fifty States of the Union, the District of Columbia, and including bridges between the United States of America and Mexico provided they are under United States ownership), Canada, St. Pierre and Miquelon, provided such interests are insured under policies, endorsements or binders containing a standard war or hostilities or warlike operations exclusion clause.

3. Atomic energy and nuclear fission risks;

4. Nuclear energy risks as set forth in the "Nuclear Incident Exclusion Clause - Liability - Reinsurance U.S.A.," "Nuclear Incident Exclusion Clause - Liability - Reinsurance Canada," "Nuclear Incident Exclusion Clause - Physical Damage - Reinsurance U.S.A.," and "Nuclear Incident Exclusion Clause - Physical Damage - Reinsurance Canada" attached to and forming part of this Contract;

5. Business written as a participant in a Pool, Syndicate, or Association;

6. All liability of the Company arising by contract, operation of law, or otherwise, from its participation or membership, whether voluntary or involuntary, in any insolvency fund. "Insolvency fund" includes any guaranty fund, insolvency fund, plan, pool, association, fund or other arrangement, however denominated, established or governed, which provides for any assessment of or payment or assumption by the Company of part or all of any claim, debt, charge, fee or other obligation of an insurer, or its successors or assigns, which has been declared by any competent authority to be insolvent, or which is otherwise deemed unable to meet any claim, debt, charge, fee or other obligation in whole or in part.

7. Life Assurance;

8. Accident and Health Insurance;

9. Ocean Marine business, except for pleasure boats written by the Company and classified as Ocean Marine;

10. Fidelity and Surety and any form of Credit Insurance, except for Self-insured Bonds issued by the Company;

11. Financial Guarantee, Credit and Insolvency risks;

12. Boiler and Machinery business;

13. Forged Warehouse Receipts;

14. All forms of legal liability arising out of the operation or navigation of ships or vessels other than:

    a. Yachts, small pleasure craft and sports fishing vessels,

    b. Vessels operating exclusively in inland and/or coastal waters, where legal liability on such vessels is incidental to the coverage provided either under a general liability policy or under a comprehensive form policy;

15. Pollution and Seepage as per the Bureau Exclusion in primary General Liability policies;

16. As respects General Liability and Workmen's Compensation and Employers Liability, it is understood and agreed that this Contract shall not cover any of the following occupations or employments:

    a. Fireworks and Ammunition manufacturing,

    b. Fuse and Explosives manufacturing,

    c. Nitro-Glycerine manufacturing,

    d. Manufacture of Cellulose and Pyroxlin,

    e. Underground coal mining,

    f. Railroad business,

    g. Pharmaceutical manufacturing,

    h. Public Utilities,

    i. Oil Well drilling,

    j. Refining of oil, gasoline and/or spirits,

    k. Risks whose principal occupation involves U. S. Longshoremen's and Harbor Worker's Act or Jones Act coverage.

    l. Production of moving pictures;

17. Aviation business, including aircraft manufacturing, but this exclusion shall not apply to liability assumed by the Company under Non-Owned Aircraft coverage;

18. Water damage legal liability, but this exclusion shall not apply to water damage legal liability covered under a motor truck cargo liability policy, or to the liability of the Company under Section 215 of the Interstate Commerce Act;

19. Security and Exchange Act liability written as such;

20. Directors and Officers liability written as such;

21. Professional and/or Professional Malpractice liability, including Errors and Omissions coverage, but this exclusion shall not apply to incidental medical malpractice to the extent that such coverage is afforded under those classifications of original policies designated in subparagraphs 4 and 5 of paragraph A of Article I.

B. With regard to the exclusions shown in subparagraphs 15 through 18 above, it is expressly understood and agreed that as respects policies issued by the Company where such excluded classifications are incidental to and/or form a minor part of the principal operations of the original risk, such policies shall not be excluded hereunder. Any such excluded classification shall be deemed incidental to and/or to form a minor part of the principal operations of the original risk if the Company's underwriter does not charge more than 10% of the total policy standard premium for coverage of the excluded classification.

C. Should the Company, by reason of an erroneous act of any agent or of any employee, be bound and assume coverage on any risk within the classes of business covered by this Contract, but specifically excluded by one or more of the exclusions set forth in subparagraphs 15 through 18 above, then such policy shall be covered hereunder, provided the Company relieves itself of the coverage assumed as quickly as possible. However, the Reinsurer's liability shall in no event exceed the limit stipulated in Article V.

ARTICLE IV - LIABILITY OF REINSURER

A. The liability of the Reinsurer shall follow that of the Company in every case, and shall be subject in all respects to all the general and special stipulations, clauses, waivers and modifications of the Company's policies, binders or other undertakings, and any endorsements thereon. No error or omission in reporting any risk reinsured hereunder shall invalidate the liability of the Reinsurer, but the reporting of reinsurance not authorized by this Contract and not authorized by special acceptance hereunder shall not bind the Reinsurer, except for return of premiums paid therefor.

B. Nothing herein shall in any manner create any obligations or establish any rights against the Reinsurer in favor of any third parties or any persons not parties to this Contract.

ARTICLE V - RETENTION AND LIMIT

A. No claim shall be made hereunder unless the Company shall have first sustained by reason of any one loss occurrence, any one insured, a net loss in excess of the greater of $4,750,000 plus the amount of any deductibe retained by the Company's insured, or $5,000,000. The Reinsurer shall then be liable for the amount of net loss in excess of the Company's retention each loss occurrence, any one insured, but the liability of the Reinsurer shall not exceed $5,000,000 any one loss occurrence, any one insured.

B. In the event of loss or losses hereunder, it is agreed that the reinsurance hereunder is reinstated automatically to the full amount, such reinstatement or reinstatements to take effect immediately upon the occurrence of such loss or losses.

ARTICLE VI - LOSS ADJUSTMENT EXPENSES

A. The term "loss adjustment expenses" shall mean all expenses incurred by the Company in the investigation, appraisal, adjustment, litigation and defense of claims (including court costs and interest where classified as expense) but excluding the Company's office expenses and the salaries of its regular employees.

B. Loss adjustment expenses, where incurred by the Company in connection with claims in which this reinsurance is involved, shall be apportioned between the Company and

the Reinsurer in proportion to their respective shares of the net loss as finally determined, except that expenses incurred in obtaining salvages or recoveries, or in the reduction or reversal of any award or judgment, shall be apportioned between the Company and the Reinsurer in the proportion that each benefits from such salvage, recovery, reduction or reversal. The Reinsurer's share of loss adjustment expenses shall be in addition to its limit of liability stipulated in Article V.

ARTICLE VII - LOSS IN EXCESS OF POLICY LIMITS

A. In the event the Company pays or is held liable to pay an amount of loss in excess of its policy limit because of alleged or actual bad faith or negligence on its part in rejecting a settlement within the applicable limits of its policy, or in discharging its duty to defend or prepare the defense in the trial of an action against its policyholder (including its duty to prepare or prosecute an appeal consequent upon such an action), the amount of loss in excess of the Company's policy limit shall be added to the amount of the Company's policy limit and the sum thereof shall be subject to the terms of this Contract; provided however, that:

   1. In no event shall any consequential, punitive and/or exemplary damages awarded the policyholder against the Company be recoverable from the Reinsurer unless the Company shall have counselled with the Reinsurer and afforded the Reinsurer an opportunity to be associated with the Company in the defense or control of the claim, prior to or at the time of the trial which resulted in the judgment against the policyholder in excess of the applicable policy limit;

   2. Notwithstanding anything contained herein, there shall be no recovery hereunder for any consequential, punitive and/or exemplary damages assessed against the Company because of any fraudulent and/or criminal act on its part.

B. No out-of-court settlement of claims the subject matter of this Article shall be made by the Company without consent of the Reinsurer.

C. Recoveries from any form of insurance or other reinsurance which protects the Company against claims the subject matter of this Article shall inure to the benefit of the Reinsurer.

ARTICLE VIII - DEFINITION OF NET LOSS

A. The term "net loss" is defined as the ultimate net loss incurred by the Company, plus the amount of any deductible of $10,000 or more retained by the Company's insured, plus interest where classified as loss, but excluding loss adjustment expenses.

B. All salvages and recoveries, including amounts recoverable from other reinsurances (except underlying excess of loss reinsurances), whether collectible or not, shall be first deducted from such loss to arrive at the amount of liability, if any, attaching hereunder. All salvages, recoveries or payments recovered or received subsequent to any loss settlement hereunder shall be applied as if recovered or received prior to the respective settlement, and all necessary adjustments shall be made by the parties hereto.

C. Nothing in this Article shall be construed to mean that losses are not recoverable hereunder until the Company's ultimate net loss has been ascertained.

ARTICLE IX - DEFINITION OF LOSS OCCURRENCE

The term "loss occurrence" as used herein is defined as any one accident or occurrence, or series of accidents or occurrences arising out of one event. Without limiting the generality of the foregoing, the same shall be held to include:

1. As respects Products Bodily Injury Liability and Products Property Damage Liability, all loss or losses included under the definition of occurrence as set forth in the Company's original policies;

2. As respects Bodily Injury Liability other than Products, all claims against any one insured for all injuries to one or more than one person resulting from infection, contagion, poisoning, or contamination proceeding from or traceable to, the same causative agency;

3. As respects Property Damage Liability other than Automobile and Products, all loss or losses caused by a series of operations, events or occurrences arising out of operations at any one specific site which cannot be attributed to any single one of such operations, events or occurrences, but rather to the cumulative effect thereof;

4. As respects Workmen's Compensation and Employers Liability, an occupational or other disease suffered by an employee, which disease arises out of the employment, and for which the employer is liable. However, in case the Company shall, within a policy year and the terms of this Contract, sustain several losses arising out of such an occupational or other disease of one specific kind or class, suffered by several employees of one insured, such losses shall be deemed to arise out of one occurrence. A loss as respects such occupational or other disease shall be deemed to have occurred on the date when compensable disability of the first such employee commenced and at no other date.

ARTICLE X - PERMITTED REINSURANCE

A. The Company is hereby granted permission to carry underlying excess of loss reinsurance for $4,750,000 in excess of an amount of net loss equal to the greater of $250,000 or the amount of any deductible retained by the Company's insured, each loss occurrence, any one insured; it being understood and agreed that in calculating the amount of any loss hereunder, and also in computing the amount in excess of which this Contract attaches, the net loss of the Company shall not be considered reduced by any amount or amounts recoverable thereunder.

B. The Company is hereby permitted to place reinsurance outside of this Contract whenever, in its judgment, it is desirable to do so.

ARTICLE XI - WARRANTY

The Company warrants that it will retain net at least the primary $250,000 referred to in paragraph A of Article X above (which figure includes self-insured deductibles of $10,000 or more).

ARTICLE XII - PREMIUM

A. As premium for the reinsurance provided under this Contract, the Company shall pay to the Reinsurer .275% of its subject net earned premiums during the currency of this Contract, subject to the minimum premium stipulated in Article XV.

B. The term "subject net earned premiums" of the Company as used herein is defined as the total net premiums (i.e., gross premiums, less cancellations and return premiums,

less inuring reinsurance premiums) earned by the Company during the currency of this Contract on the classes of business covered hereunder, after deduction of premiums applying to risks, perils and classes of risk excluded specifically in Article III hereof. It is specially agreed that subject net earned premiums shall not include retrospective deficit or credit premiums, Stop Loss Protection (Maximum Premium Limitation) premiums, or that portion of premiums considered commissions payable by the Company. All calculations of unearned premiums shall be made on the semimonthly pro rata basis.

ARTICLE XIII - LOSS SETTLEMENTS

The Reinsurer agrees to abide by the loss settlements of the Company, it being understood, however, that when so requested, the Company will afford the Reinsurer an opportunity to be associated with the Company, at the expense of the Reinsurer, in the defense or control of any claim or suit or proceeding involving this reinsurance and that the Company will cooperate in every respect in the defense or control of such claim, suit or proceeding.

ARTICLE XIV - PREMIUM AND LOSS REPORTS

A. Within 45 days after the end of each month during the currency of this Contract the Company shall furnish a statement to the Reinsurer setting forth by major class, United States and Canadian separately, its subject net earned premiums for the month and the reinsurance premium due hereunder.

B. The Company shall give prompt notice to the Reinsurer on all claims reserved in excess of $2,500,000, and on all losses which, in the judgment of the Company, could result in a claim involving reinsurance hereunder. Also, the Company shall advise the Reinsurer of all subsequent developments pertaining to such claims or losses if, in the opinion of the Company, such developments might materially affect the position of the Reinsurer.

ARTICLE XV - PREMIUM AND LOSS REMITTANCES

A. Within 45 days after the end of each month during the currency of this Contract, the balance of premiums due hereunder and losses claimed hereunder shall be paid by the debtor party to the creditor party. It is agreed, however, that any one loss hereunder exceeding $50,000 shall be paid immediately by the Reinsurer upon receipt of an individual proof of loss.

B. As promptly as possible after March 31, 1981, and after each subsequent March 31 during the currency of this Contract, the Company shall calculate the premium due for the preceding 12-month period at the rate stipulated in Article XII, and the amount, if any, by which the premium so determined is less than $270,000 United States currency or equivalent shall be remitted by the Company to the Reinsurer.

ARTICLE XVI - CURRENCY

The provisions of this Contract involving dollar amounts are expressed in United States currency as respects policies issued by the Company in United States currency, and in Canadian currency as respects policies issued by the Company in Canadian currency. Premiums and losses hereunder involving Canadian currency shall be reported separately, and shall be settled in Canadian currency.

ARTICLE XVII - ERRORS AND OMISSIONS

The position of the Company shall not be prejudiced by any error or omission in reporting premiums or losses under this Contract, or in claiming losses recoverable hereunder. Any such errors or omissions shall, however, be corrected upon discovery.

ARTICLE XVIII - ACCESS TO RECORDS

The Reinsurer, by its duly appointed representatives, shall have the right at any reasonable time to examine all papers in the possession of the Company referring to business effected hereunder.

ARTICLE XIX - INSOLVENCY

A. In the event of the insolvency of one or both of the reinsured companies, this reinsurance shall be payable directly to the company or to its liquidator, receiver, conservator or statutory successor on the basis of the liability of the company without diminution because of the insolvency of the company or because the liquidator, receiver, conservator or statutory successor of the company has failed to pay all or a portion of any claim. It is agreed, however, that the liquidator, receiver, conservator or statutory successor of the company shall give written notice to the Reinsurer of the pendency of a claim against the company indicating the policy or bond reinsured which claim would involve a possible liability on the part of the Reinsurer within a reasonable

time after such claim is filed in the conservation or liquidation proceeding or in the receivership, and that during the pendency of such claim, the Reinsurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses that it may deem available to the company or its liquidator, receiver, conservator or statutory successor. The expense thus incurred by the Reinsurer shall be chargeable, subject to the approval of the Court, against the company as part of the expense of conservation or liquidation to the extent of a pro rata share of the benefit which may accrue to the company solely as a result of the defense undertaken by the Reinsurer.

B. Where two or more reinsurers are involved in the same claim and a majority in interest elect to interpose defense to such claim, the expense shall be apportioned in accordance with the terms of this Contract as though such expense had been incurred by the company.

C. It is further understood and agreed that, in the event of the insolvency of one or both of the reinsured companies, the reinsurance under this Contract shall be payable directly by the Reinsurer to the company or to its liquidator, receiver or statutory successor, except as provided by Section 315 of the New York Insurance Law or except (a) where the Contract specifically provides another payee of such reinsurance in the event of the insolvency of the company and (b) where the Reinsurer with the consent of the direct insured or insureds has assumed such policy obligations of the company as direct obligations of the Reinsurer to the payees under such policies and in substitution for the obligations of the company to such payees.

ARTICLE XX - ARBITRATION

A. Any dispute or other matter in question arising between the Company and any of the reinsurers out of or relating to the interpretation, performance, or breach of this Contract shall be settled by arbitration. Arbitration shall be initiated by the delivery of a written notice of demand for arbitration by one party to the other within a reasonable time after the dispute has arisen. Those reinsurers involved in the dispute or other matter in controversy shall be considered as one party for the purpose of allocating the cost of the arbitration.

B. Each party shall appoint an individual as arbitrator and the two so appointed shall then appoint a third arbitrator. If either party refuses or neglects to appoint an arbitrator within sixty days, the other party may appoint the second arbitrator. If the two arbitrators do not agree on a third arbitrator within sixty days of their appointment, each of the arbitrators shall nominate three individuals. Each arbitrator shall then decline two of the nominations presented by the other arbitrator. The third arbitrator shall then be chosen from the remaining two nominations by drawing lots. The arbitrators shall be active or retired officers of insurance or reinsurance companies, or Lloyd's London Underwriters; the arbitrators shall not have a personal or financial interest in the result of the arbitration.

C. The arbitration hearings shall be held in Dallas, Texas or such other place as may be mutually agreed. Each party shall submit its case to the arbitrators within sixty days of the selection of the third arbitrator or within such longer period as may be agreed by the arbitrators. The arbitrators shall not be obliged to follow judicial formalities or the rules of evidence except to the extent required by governing law, that is, the state law of the sites of the arbitration as herein agreed; they shall make their decisions according to the practice of the reinsurance business. The decision rendered by a majority of the arbitrators shall be final and binding upon both parties. Such decision shall be a condition precedent to any right of legal action arising out of the arbitrated dispute which either party may have against the other. Judgment upon the award rendered may be entered in any court having jurisdiction thereof.

D. Each party shall pay the fee and expenses of its own arbitrator and one-half of the fee and expense of the third arbitrator. All other expenses of the arbitration shall be equally divided between the parties.

E. Except as provided above, arbitration shall be based insofar as applicable, upon the procedures of the American Arbitration Association.

ARTICLE XXI - INTERMEDIARY

E. W. Blanch Co., Reinsurance Services, Northwestern Financial Center, 7900 Xerxes Avenue South, Minneapolis, Minnesota 55431, is hereby recognized as the intermediary by whom this Contract was negotiated and through whom all

communications relating hereto (including but not limited to notices, statements, premiums, return premiums, commissions, taxes, losses, loss adjustment expenses, salvage and loss settlements) shall be transmitted to both parties. It is understood, as regards remittances due either party hereunder, that payment by the Company to E. W. Blanch Co. shall constitute payment to the Reinsurer, but payment by the Reinsurer to E. W. Blanch Co. shall only constitute payment to the Company to the extent such payments are actually received by the Company.

ARTICLE XXII - COMMENCEMENT AND TERMINATION

A. This Contract shall become effective at April 1, 1980, with respect to loss occurrences commencing at and after that date, and shall continue in force thereafter until terminated in accordance with paragraph B thereof.

B. Either party may terminate this Contract at midnight on any March 31 by giving to the other party not less than 90 days prior notice by certified mail. Unless otherwise mutually agreed, the Reinsurer shall not be liable hereunder for losses arising out of loss occurrences commencing after the effective time and date of termination.

ARTICLE XXIII - EXTENDED TERMINATION

Should this Contract be terminated while a loss occurrence covered hereunder is in progress, it is understood and agreed that subject to the other conditions of this Contract the Reinsurer shall be responsible for its proportion of the entire loss or damage caused by such loss occurrence.

ARTICLE XXIV - UNAUTHORIZED REINSURERS

If a reinsurer under this Contract is unauthorized in any state of the United States of America or the District of Columbia where authorization is required by insurance regulatory authorities, the reinsurer will fund outstanding losses by either cash advances, escrow accounts for the benefit of the Company, Letters of Credit, or a combination thereof, if a penalty would accrue to the Company on its statement without such funding. The reinsurer shall have the sole option of using other than cash provided it is acceptable to the insurance regulatory authorities involved.

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NUCLEAR INCIDENT EXCLUSION CLAUSE—LIABILITY—REINSURANCE

(Approved by Lloyd's Underwriters' Fire and Non-Marine Association)

(1) This reinsurance does not cover any loss or liability accruing to the Reassured as a member of, or subscriber to, any association of insurers or reinsurers formed for the purpose of covering nuclear energy risks or as a direct or indirect reinsurer of any such member, subscriber or association.

(2) Without in any way restricting the operation of paragraph (1) of this Clause it is understood and agreed that for all purposes of this reinsurance all the original policies of the Reassured (new, renewal and replacement) of the classes specified in Clause II of this paragraph (2) from the time specified in Clause III in this paragraph (2) shall be deemed to include the following provision (specified as the Limited Exclusion Provision):

Limited Exclusion Provision.*

I. It is agreed that the policy does not apply under any liability coverage, to [*injury, sickness, disease, death or destruction* / bodily injury or property damage] with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability.

II. Family Automobile Policies (liability only), Special Automobile Policies (private passenger automobiles, liability only), Farmers Comprehensive Personal Liability Policies (liability only), Comprehensive Personal Liability Policies (liability only) or policies of a similar nature; and the liability portion of combination forms related to the four classes of policies stated above, such as the Comprehensive Dwelling Policy and the applicable types of Homeowners Policies.

III. The inception dates and thereafter of all original policies as described in II above, whether new, renewal or replacement, being policies which either

(a) become effective on or after 1st May, 1960, or

(b) become effective before that date and contain the Limited Exclusion Provision set out above;

provided this paragraph (2) shall not be applicable to Family Automobile Policies, Special Automobile Policies, or policies or combination policies of a similar nature, issued by the Reassured on New York risks, until 90 days following approval of the Limited Exclusion Provision by the Governmental Authority having jurisdiction thereof.

(3) Except for those classes of policies specified in Clause II of paragraph (2) and without in any way restricting the operation of paragraph (1) of this Clause, it is understood and agreed that for all purposes of this reinsurance the original liability policies of the Reassured (new, renewal and replacement) affording the following coverages:

Owners, Landlords and Tenants Liability, Contractual Liability, Elevator Liability, Owners or Contractors (including railroad) Protective Liability, Manufacturers and Contractors Liability, Product Liability, Professional and Malpractice Liability, Storekeepers Liability, Garage Liability, Automobile Liability (including Massachusetts Motor Vehicle or Garage Liability)

shall be deemed to include, with respect to such coverages, from the time specified in Clause V of this paragraph (3), the following provision (specified as the Broad Exclusion Provision):

Broad Exclusion Provision.*

It is agreed that the policy does not apply:

I. Under any Liability Coverage, to [*injury, sickness, disease, death or destruction* / bodily injury or property damage]

(a) with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

II. Under any Medical Payments Coverage, or under any Supplementary Payments Provision relating to [*immediate medical or surgical relief*, / first aid.] to expenses incurred with respect to [*bodily injury, sickness, disease or death* / bodily injury] resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

III. Under any Liability Coverage, to *injury, sickness, disease, death or destruction* / bodily injury or property damage resulting from the hazardous properties of nuclear material, if

(a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;

(b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or

(c) the *injury, sickness, disease, death or destruction* / bodily injury or property damage arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories, or possessions or Canada, this exclusion (c) applies only to *injury to or destruction of property at such nuclear facility.* / property damage to such nuclear facility and any property thereat.

IV. As used in this endorsement:

"**hazardous properties**" include radioactive, toxic or explosive properties; "**nuclear material**" means source material, special nuclear material or byproduct material; "**source material**", "**special nuclear material**", and "**byproduct material**" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof; "**spent fuel**" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor; "**waste**" means any waste material (1) containing byproduct material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof; "**nuclear facility**" means

(a) any nuclear reactor,

(b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling processing or packaging waste,

(c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations; "**nuclear reactor**" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

With respect to injury to or destruction of property, the word "injury" or "destruction" / "property damage" includes all forms of radioactive contamination of property. / *includes all forms of radioactive contamination of property.*

V. The inception dates and thereafter of all original policies affording coverages specified in this paragraph (3), whether new, renewal or replacement, being policies which become effective on or after 1st May, 1960, provided this paragraph (3) shall not be applicable to

(i) Garage and Automobile Policies issued by the Reassured on New York risks, or

(ii) statutory liability insurance required under Chapter 90, General Laws of Massachusetts,

until 90 days following approval of the Broad Exclusion Provision by the Governmental Authority having jurisdiction thereof.

(4) Without in any way restricting the operation of paragraph (1) of this Clause, it is understood and agreed that paragraphs (2) and (3) above are not applicable to original liability policies of the Reassured in Canada and that with respect to such policies this Clause shall be deemed to include the Nuclear Energy Liability Exclusion Provisions adopted by the Canadian Underwriters' Association or the Independent Insurance Conference of Canada.

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*NOTE. The words printed in italics in the Limited Exclusion Provision and in the Broad Exclusion Provision shall apply only in relation to original liability policies which include a Limited Exclusion Provision or a Broad Exclusion Provision containing those words.

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NUCLEAR INCIDENT EXCLUSION CLAUSE - LIABILITY - REINSURANCE CANADA

1. This reinsurance does not cover any loss or liability accruing to the Company as a member of, or subscriber to, any association of insurers or reinsurers formed for the purpose of covering nuclear energy risks or as a direct or indirect reinsurer of any such member, subscriber, or association.

2. Without in any way restricting the operation of paragraph 1 of this clause it is agreed that for all purposes of this reinsurance all the original liability contracts of the Company, whether new, renewal or replacement, of the following classes, namely,

Personal Liability,
Farmers Liability,
Storekeepers Liability,

Which become effective on or after 31st December 1962, shall be deemed to include, from their inception dates and thereafter, the following provision: --

LIMITED EXCLUSION PROVISION

This Agreement does not apply to injury, sickness, disease, death damage or destruction with respect to which an insured under this Agreement is also insured under a contract or nuclear energy liability insurance (whether the insured is named in such Agreement or not and whether or not it is legally enforceable by the insured) issued by the Nuclear Insurance Association of Canada or any other group or pool of insurers or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability.

With respect to property, loss of use of such property shall be deemed to be damage to or destruction of property.

3. Without in any way restricting the operation of paragraph 1 of this clause it is agreed that for all purposes of this reinsurance all the original liability contracts of the Company, whether new, renewal or replacement, of any class whatsoever (other than personal liability, farmers liability, storekeepers liability or automobile liability contracts), which become effective on or after 31st December 1962, shall be deemed to include, from their inception dates and thereafter, the following provision: -

BROAD EXCLUSION PROVISION: -

This Agreement does not apply to injury, sickness, disease, death, damage or destruction

(A) With respect to which an insured under this Agreement is also insured under a contract of nuclear energy liability insurance (whether

the insured is named in such contract or not and whether or not is is legally enforceable by the insured) issued by the Nuclear Insurance Association of Canada or any other group or pool or insurers or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(B) Resulting directly or indirectly from the nuclear energy hazard arising from:

(1) The ownership, maintenance, operation or use of a nuclear facility by or on behalf of an insured:

(2) The furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility; and

(3) The transportation, consumption, possession, handling, disposal or use of radioactive material (other than radioisotopes away from a nuclear facility) sold, handled, used or distributed by an insured.

As used in this Endorsement:

(I) The term "Nuclear Energy Hazard" means the radioactive, toxic, explosive or other hazardous properties of radioactive material;

(II) The term "Radioactive Material" means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances that the Atomic Energy Control Board may, by regulation, designate as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy;

(III) The term "Nuclear Facility" means:

(A) Any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium and uranium or any one or more of them;

(B) Any equipment or device designed or used for (I) separating the isotopes of plutonium, thorium and uranium or any one or more of them, (II) processing

or utilizing spent fuel, or (III) handling, processing or packaging waste;

(C) Any equipment or device used for the processing, fabricating or alloying of plutonium, thorium and uranium or any one or more of them if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(D) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste radioactive material;

and includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.

(IV) With respect to property, loss of use of such property shall be deemed to be damage to or destruction of property.

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NUCLEAR INCIDENT EXCLUSION CLAUSE—PHYSICAL DAMAGE—REINSURANCE

1. This Reinsurance does not cover any loss or liability accruing to the Reassured, directly or indirectly and whether as Insurer or Reinsurer, from any Pool of Insurers or Reinsurers formed for the purpose of covering Atomic or Nuclear Energy risks.

2. Without in any way restricting the operation of paragraph (1) of this Clause, this Reinsurance does not cover any loss or liability accruing to the Reassured, directly or indirectly and whether as Insurer or Reinsurer, from any insurance against Physical Damage (including business interruption or consequential loss arising out of such Physical Damage) to:

I. Nuclear reactor power plants including all auxiliary property on the site, or

II. Any other nuclear reactor installation, including laboratories handling radioactive materials in connection with reactor installations, and " critical facilities " as such, or

III. Installations for fabricating complete fuel elements or for processing substantial quantities of " special nuclear material ", and for reprocessing, salvaging, chemically separating, storing or disposing of " spent " nuclear fuel or waste materials, or

IV. Installations other than those listed in paragraph (2) III above using substantial quantities of radioactive isotopes or other products of nuclear fission.

3. Without in any way restricting the operations of paragraphs (1) and (2) hereof, this Reinsurance does not cover any loss or liability by radioactive contamination accruing to the Reassured, directly or indirectly, and whether as Insurer or Reinsurer, from any insurance on property which is on the same site as a nuclear reactor power plant or other nuclear installation and which normally would be insured therewith except that this paragraph (3) shall not operate

(a) where Reassured does not have knowledge of such nuclear reactor power plant or nuclear installation, or

(b) where said insurance contains a provision excluding coverage for damage to property caused by or resulting from radioactive contamination, however caused. However on and after 1st January 1960 this sub-paragraph (b) shall only apply provided the said radioactive contamination exclusion provision has been approved by the Governmental Authority having jurisdiction thereof.

4. Without in any way restricting the operations of paragraphs (1), (2) and (3) hereof, this Reinsurance does not cover any loss or liability by radioactive contamination accruing to the Reassured, directly or indirectly, and whether as Insurer or Reinsurer, when such radioactive contamination is a named hazard specifically insured against.

5. It is understood and agreed that this Clause shall not extend to risks using radioactive isotopes in any form where the nuclear exposure is not considered by the Reassured to be the primary hazard.

6. The term " special nuclear material " shall have the meaning given it in the Atomic Energy Act of 1954 or by any law amendatory thereof.

7. Reassured to be sole judge of what constitutes:

(a) substantial quantities, and

(b) the extent of installation, plant or site.

Note.—Without in any way restricting the operation of paragraph (1) hereof, it is understood and agreed that

(a) all policies issued by the Reassured on or before 31st December 1957 shall be free from the application of the other provisions of this Clause until expiry date or 31st December 1960 whichever first occurs whereupon all the provisions of this Clause shall apply.

(b) with respect to any risk located in Canada policies issued by the Reassured on or before 31st December 1958 shall be free from the application of the other provisions of this Clause until expiry date or 31st December 1960 whichever first occurs whereupon all the provisions of this Clause shall apply

12/12/57
N.M.A. 1119

NUCLEAR INCIDENT EXCLUSION CLAUSE - PHYSICAL DAMAGE - REINSURANCE CANADA

1. This Agreement does not cover any loss or liability accruing to the Company, directly or indirectly, and whether as insurer or reinsurer, from any pool of insurers or reinsurers formed for the purpose of covering atomic or Nuclear Energy Risks.

2. Without in any way restricting the operation of paragraph 1 of this clause, this Agreement does not cover any loss or liability accruing to the Company, directly or indirectly, and whether as insurer or reinsurer, from any insurance against physical damage (including business interruption or consequential loss arising out of such physical damage) to:

(A) Nuclear reactor power plants including all auxiliary property on the site, or

(B) Any other nuclear reactor installation, including laboratories handling radioactive materials in connection with reactor installations, and critical facilities as such, or

(C) Installations for fabricating complete fuel elements or for processing substantial quantities of prescribed substances, and for reprocessing, salvaging, chemically separating, storing or disposing of spent nuclear fuel or waste materials, or

(D) Installations other than those listed in (C) above using substantial quantities of radioactive isotopes or other products of nuclear fission.

3. Without in any way restricting the operation of paragraphs 1 and 2 of this clause, this Agreement does not cover any loss or liability by radioactive contamination accruing to the Company, directly or indirectly, and whether as insurer or reinsurer from any insurance on property which is on the same site as a nuclear reactor power plant or other nuclear installations and which normally would be insured therewith, except that this paragraph 3 shall not operate:

(A) Where the Company does not have knowledge of such nuclear reactor power plant or nuclear installation, or

(B) Where the said insurance contains a provision excluding coverage for damage to property caused by or resulting from radioactive contamination, however caused.

4. Without in any way restricting the operation of paragraphs 1, 2 and 3 of this clause, this Agreement does not cover any loss or liability by radioactive contamination accruing to the Company,

EXHIBIT 4

SUBJECT TO MOTION TO IMPOUND

EXHIBIT 5

SUBJECT TO MOTION TO IMPOUND

EXHIBIT 6

ORIGINAL

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

In re:

VULCAN MATERIALS CONSOLIDATED COVERAGE LITIGATION

Consolidated Case No. BC328022

LEGACY VULCAN CORP.,

Plaintiff,

v.

TRANSPORT INSURANCE COMPANY, FIRST STATE INSURANCE COMPANY, EMPLOYERS REINSURANCE CORPORATION, and DOES 101 through 200, inclusive,

Defendants.

LEGACY VULCAN CORP.'S AMENDED COMPLAINT FOR DAMAGES FOR BREACH OF CONTRACT; FOR DAMAGES FOR BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING; AND FOR DECLARATORY RELIEF

Dept.: CCW-308
Judge: Hon. Jane L. Johnson

Date action filed: January 30, 2005

Trial Date: None set

BY FAX

PRELIMINARY STATEMENT

On April 24, 2013, the Court ordered that Cases Nos. BC328022, BC 354664, and BC481850 are consolidated for all purposes; that the consolidated cases shall be captioned "In re: Vulcan Materials Consolidated Coverage Litigation" and shall be identified as Case No. BC328022; that the parties are realigned such that Legacy Vulcan Corp. ("Vulcan") shall now be the plaintiff in the consolidated action; and that Vulcan shall file and serve an "Amended Complaint," which will be its sole operative affirmative pleading in the consolidated action.

INTRODUCTION

1. This is an insurance coverage action brought by insurance policy holder Legacy Vulcan Corp., formerly known as Vulcan Materials Company ("Vulcan"). This action addresses three insurance companies' duty to defend Vulcan in certain underlying legal actions.

2. Vulcan is the country's leading producer of construction aggregates – primarily crushed stone, sand and gravel – used in nearly all types of construction, especially large infrastructure projects such as roads, airports, railroads, and water and sewer systems. Vulcan at one time had a chemical division that manufactured and sold chemical products. Vulcan divested the chemical division in 2005. Vulcan continues, however, to face potential liabilities arising out of its legacy chemicals operations. Vulcan has been named as a defendant in five categories of lawsuits asserting claims that Vulcan is legally liable to pay sums because of property damage and/or bodily injury allegedly mostly caused either by its chemical products or by its former chemical division's operations ("Underlying Actions"):

a) Lawsuits alleging that perchloroethylene (PCE), a chemical product used in the dry cleaning process (Vulcan's product was known as "PerSec"), has contaminated soil, groundwater, and drinking wells ("PerSec Claims");

b) Lawsuits alleging that West Virginia coal industry workers were exposed to chemicals used in float-sink labs, including PCE, and allegedly were injured as a result of that exposure ("Float-Sink Lab Claims");

c) Lawsuits alleging that transformer oil PCBs were released at or from the Ward Transformer Superfund Site in Raleigh, North Carolina, allegedly contaminating soils and sediments, wetlands, creeks and fish ("Ward Transformer Claims");

d) Lawsuits alleging that numerous parties discharged hazardous substances to and into the Lower Passaic River (River) in New Jersey, allegedly contaminating the river and the riverbed ("Passaic River lawsuits"); and

e) Lawsuits alleging that workers in Vulcan's former facilities in Geismar, LA, Port Edwards, WI, and Wichita, KS, were exposed to asbestos while working on premises, and allegedly were injured as a result of that exposure ("Asbestos Claims").

3. The Underlying Actions that are the subject of this insurance coverage action are identified in the chart attached to this Amended Complaint as Exhibit A, which is incorporated here by reference.

4. This insurance coverage action addresses the three defendant insurers' duty to defend Vulcan in and against the Underlying Actions. This coverage action does not address any insurer's contractual obligation to cover any indemnity obligation that Vulcan may incur through settlement of or judgment in the Underlying Actions. To the extent any insurer at this time seeks to litigate over insurance coverage for any indemnity obligation Vulcan may incur in the Underlying Action(s), Vulcan will and hereby does move the Court to stay the insurer's action pending resolution of the Underlying Action(s) because such coverage litigation would be both premature as well as prejudicial to Vulcan inasmuch as the dispute over coverage for any such indemnity obligation would turn on facts to be litigated in the Underlying Actions.

5. Transport Insurance Company ("Transport") issued a liability insurance policy in effect from January 1, 1981, to January 1, 1982, number XGL-731-81-1 ("1981 Transport Policy"). The 1981 Transport Policy's Insuring Agreement includes two clauses giving Transport a duty to defend Vulcan under certain circumstances. Clause (1) provides "umbrella" coverage that "drops down" to provide primary defense coverage for claims not covered by underlying primary insurance. In *Legacy Vulcan Corp. v. Superior Court* (2010) 185 Cal.App.4th 677, in the context of PerSec claims by the City of Modesto, the Court of Appeal held that Transport "had a duty to defend under clause (1) if any claim was potentially covered by [the 1981 Transport Policy] but was not within the terms of coverage of 'underlying insurance'" policies identified in the Transport Policy's Schedule A. *Legacy Vulcan Corp. v. Superior Court*, 185 Cal.App.4th at 693.

6. The claims asserted in the Underlying Actions are covered or at least potentially covered by the 1981 Transport Policy and not within the terms of coverage of the underlying insurance policies identified in the Transport Policy's Schedule A. Transport therefore has a contractual duty to defend Vulcan in and against the Underlying Actions.

7. Despite having a duty to defend as held by the Court of Appeal, Transport has denied and repudiated any duty to defend and has refused and failed to defend Vulcan in and against the Underlying Actions.

8. Transport has refused and failed to defend Vulcan without any reasonable good faith basis for doing so. Transport has refused and failed to defend Vulcan solely in order to deprive Vulcan of the financial benefit of its insurance policy, and to wrongfully use the funds to which Vulcan is entitled for Transport's own benefit – *i.e.*, to create an artificial financial "surplus" – and for the benefit of a third party (Randall & Quilter Investment Holdings plc) that owns and controls Transport and seeks to maximize Transport's "surplus" with the intent to siphon off the supposed "surplus" for the benefit of Randall & Quilter and its investors to the detriment of Vulcan and other Transport policy holders.

9. In the Underlying Actions claimants assert some grounds for recovery that may not be covered by Transport's insurance. In addition, Transport has reserved or purported to reserve rights to deny coverage for any indemnity obligation that Vulcan may incur through settlement of or judgment in the Underlying Actions. Transport also has filed a lawsuit against Vulcan in which Transport has repudiated and flatly denied coverage for any indemnity obligation that Vulcan may incur in the Underlying Actions. In addition, in said lawsuit and otherwise Transport has repudiated and denied any duty to defend Vulcan or to otherwise provide for Vulcan's defense in and against the Underlying Actions. Transport's interests in defending the Underlying Actions therefore are in conflict with Vulcan's interests. This conflict of interests creates a duty on the part of Transport to provide independent counsel selected by Vulcan to represent and defend Vulcan in and against the Underlying Actions.

10. Transport has refused and failed to provide Vulcan with independent counsel, and has refused and failed to consent to Vulcan's selection of independent counsel and/or to pay the fees and costs of independent counsel. Transport has refused and failed to provide Vulcan with independent counsel without any reasonable good faith basis for doing so. Transport has refused and failed to provide Vulcan with independent counsel solely in order to deprive Vulcan of the financial benefit its insurance policy, and to wrongfully use the funds to which Vulcan is

entitled to create an artificial financial "surplus" for Transport's own benefit and the benefit of Randall & Quilter Investment Holdings plc and its investors, as alleged hereinabove at Paragraph 8, to the detriment of Vulcan and other Transport policy holders.

11. Among other grounds asserted by Transport in denying any duty to defend Vulcan and in denying coverage for any indemnity obligation that may be imposed on Vulcan Underlying Actions, Transport claims that it has paid out the full amount of the 1981 Transport Policy's aggregate limit of liability for bodily injury and property damage claims arising out of Vulcan's products (the "products hazard") and, therefore, that Transport no longer owes Vulcan any duty to defend and/or indemnify Vulcan pursuant to the terms of the 1981 Transport Policy.

12. Transport contends that it "exhausted" the 1981 Transport Policy's aggregate limit for "products hazard" claims in early 2011 when Transport made a lump sum payment (the amount of which is confidential) in settlement of Vulcan's claims related to six lawsuits not among the Underlying Actions. The Vulcan claims settled by that lump sum payment – including other insurers' claims to equitable indemnity and equitable contribution which had been assigned to Vulcan – were for approximately $41.2 million, plus an additional amount of punitive damages, as follows:

a) Vulcan's claim to $15.3 million in defense costs incurred in the three City of Modesto PerSec claims that were at issue in *Legacy Vulcan Corp. v. Superior Court*;

b) Vulcan's claim to $1.2 million in defense costs incurred in three other lawsuits (*Garcia*, *Lyon* and *Team Enterprises*);

c) Vulcan's claim to $5.8 million in prejudgment interest as to said defense costs;

d) Vulcan's claim to approximately $15.88 million of the $20.4 million paid to settle the three City of Modesto PerSec claims at issue in *Legacy Vulcan Corp. v. Superior Court*, calculated as Transport's fair share of $20.4 million given Transport's $30.8 million of coverage (per "occurrence") spanning (15) fifteen years;

d) Vulcan's claim to $3 million in prejudgment interest as to those settlements;

e) Vulcan's claim to approximately $4 million in attorney's fees; and

f) Vulcan's claim that Transport should be assessed with punitive damages.

13. Transport contends that it unilaterally may allocate and unilaterally has allocated its lump sum payment in settlement of Vulcan's prior insurance claims

a) entirely to the $20.4 million paid to settle the City of Modesto PerSec claims, and not at all to defense costs, prejudgment interest, attorney's fees or punitive damages; and

b) as among the four Transport Policies in effect from 1963-1972, 1976-1978, 1978-1981 and 1981-1982, entirely to the one-year 1981 Transport Policy to the extent required to "exhaust" that Policy's aggregate limit for "products hazard" claims;

c) with the leftover residual amount of the lump sum payment then spread across the remaining fourteen (14) years of Transport insurance coverage.

14. Transport apparently contends that by virtue of the supposed "exhaustion" of the 1981 Transport Policy "products hazard" aggregate limit, Transport has no further obligation to defend or indemnify Vulcan "for past, current, or future claims" of *any* kind, *i.e.*, neither "products hazard" claims *nor* any other type of bodily injury and/or property damage liability claims. Thus Transport relies on its "exhaustion" argument to deny a duty to defend Vulcan in any of the Underlying Actions, whether they involve "products hazard" claims or not.

15. Transport's payment in settlement of Vulcan's claims described above in Paragraph 12 in fact did not exhaust the 1981 Transport Policy's "products hazard" aggregate limit. Transport's purported allocation of the settlement payment has no justifiable basis in fact, in law or in equity. Instead, Transport obviously has strained to devise an allocation specifically and intentionally designed to accomplish one and only one goal: to artificially exhaust the aggregate limit of the 1981 Transport Policy in order to prematurely terminate Transport's duty to defend Vulcan in other cases. In contriving and attempting to impose an allocation patently designed to deprive Vulcan of the benefits of its insurance contract – specifically, to deprive Vulcan of the benefit of Transport's contractual promise and duty to defend – Transport has blatantly breached its contractual obligations under the 1981 Transport Policy and has flagrantly violated the covenant of good faith and fair dealing implied in that contract.

16. First State Insurance Company ("First State") issued a liability insurance policy in effect from January 1, 1981, to January 1, 1982, number 917384 ("First State Policy").

The First State Policy provides Vulcan with liability insurance coverage in excess of the underlying coverage provided by the 1981 Transport Policy. In the event that the aggregate limit of liability of the underlying 1981 Transport Policy is exhausted, the First State Policy obligates First State to defend any suit against Vulcan alleging property damage or personal injury occurring during the First State Policy period. Therefore, if the 1981 Transport Policy's "products hazard" aggregate limit were exhausted as Transport contends, First State then would have a duty to defend Vulcan in and against the Underlying Actions that concern the "products hazard," *i.e.*, the PerSec Claims and the Float-Sink Lab Claims.

17. Vulcan denies that the 1981 Transport Policy's "products hazard" aggregate limit has been exhausted; but so that all the interested parties will be bound by the same interpretation of the relevant insurance policies and may determine their respective rights and obligations among themselves, and to avoid the multiplicity of legal actions that would otherwise be necessary, Vulcan hereby seeks a judicial determination and declaration that if and when the 1981 Transport Insurance Policy's "products hazard" aggregate limit has been exhausted, First State has a duty to defend Vulcan in and against the PerSec Claims and the Float-Sink Lab Claims.

18. Employers Reinsurance Corporation ("ERC") issued a liability insurance policy in effect from January 1, 1969, to January 1, 1970, number U-4114-70, and another liability insurance policy in effect from January 1, 1970, to January 1, 1972, number U-4114-73 ("ERC Policies"). The ERC Policies obligate ERC "to defend any suit against [Vulcan] seeking damages on account of [bodily injury or] property damage even if any of the allegations of the suit are groundless, false or fraudulent," "[i]f no other insurer has the right or duty to do so."

19. Vulcan is informed and believes, and on that basis alleges, that First State contends that, even if the 1981 Transport Policy's "products hazard" aggregate limit were exhausted as Transport contends, the First State Policy does not obligate First State to defend Vulcan in and against any of the Underlying Actions. Vulcan contends that if and when the 1981 Transport Policy's "products hazard" aggregate limit has been exhausted, First State has a duty to defend Vulcan in and against the PerSec Claims and the Float-Sink Lab Claims; but so

that all the interested parties will be bound by the same interpretation of the relevant insurance policies and may determine their respective rights and obligations among themselves, and to avoid the multiplicity of legal actions that would otherwise be necessary, Vulcan hereby seeks a judicial determination and declaration that if and when the 1981 Transport Insurance Policy's "products hazard" aggregate limit becomes exhausted (such that Transport no longer has a duty to defend "products hazard" claims) First State does not have a duty to defend Vulcan in and against the PerSec Claims and the Float-Sink Lab Claims, then ERC has a duty to defend Vulcan in and against the PerSec Claims and the Float-Sink Lab Claims.

PARTIES

20. Plaintiff Legacy Vulcan Corp., formerly known as Vulcan Materials Company ("Vulcan"), is a corporation organized under the laws of New Jersey and headquartered in Birmingham, Alabama. Vulcan is and at all times relevant to this Amended Complaint was qualified to conduct business in the State of California.

21. Defendant Transport Insurance Company ("Transport") is a corporation organized under the laws of Ohio. Vulcan is informed and believes, and on that basis alleges, that Transport's principal place of business is in Massachusetts. At all times relevant hereto, Transport was licensed to do business, and was doing and transacting business, in the State of California.

22. Defendant First State Insurance Company ("First State") is a corporation organized under the laws of Connecticut with its principal place of business in Massachusetts. First State is licensed to conduct insurance business in California.

23. Defendant Employers Reinsurance Corporation ("ERC") is a corporation organized under the laws of Missouri with its principal place of business in Kansas. ERC is licensed to conduct insurance business in California. (Transport, First State and ERC are sometimes collectively referred to as "Insurers.")

24. The true names and capacities, whether individual, corporate, associate or otherwise, of Defendants Does 101 through 200, inclusive, are unknown to Vulcan, who therefore sues those Defendants by such fictitious names. Vulcan will amend this Amended

Complaint to show the true names and capacities of Does 101 through 200, inclusive, when the same have been ascertained. Each such defendant was the agent of one or more of the defendants named herein, and the acts complained of herein were committed within the scope of such agency, and each such defendant is jointly and severally responsible for the acts complained of herein.

JURISDICTION AND VENUE

25. The Court has jurisdiction over the claims asserted in this Amended Complaint pursuant to the California Constitution, Article VI, § 10. Venue is proper in this Court pursuant to California Code Civil Procedure Code § 395(a).

THE INSURANCE POLICIES

26. Transport issued four first-layer liability insurance policies to Vulcan over a period of fifteen (15) years:

No. 031001 (for eight successive policy periods, beginning with a two-year policy period of January 1, 1963, to January 1, 1965, followed by renewals for seven additional one-year policy periods) (9 years);

No. GLX-731-76-1 (January 1, 1976, to January 1, 1978) (2 years);

No. GLX-731-78-1 (January 1, 1978, to January 1, 1981) (3 years); and

No. XGL-731-81-1 (January 1, 1981, to January 1, 1982) (1 year)

(collectively, the "Transport Policies").

This insurance coverage action seeks relief with respect to the latter policy, number XGL-731-81-1 ("1981 Transport Policy").

27. Policy No. 031001 was initially issued for the policy period January 1, 1963, to January 1, 1965. Policy No. 031001 as issued provides insurance coverage for all sums Vulcan becomes legally obligated to pay as damages because of bodily injury (including sickness and disease) or property damage. Policy No. 031001 as issued provides bodily injury coverage subject to limits of $200,000 each person and $500,000 each accident, as well as an aggregate limit of $500,000 solely applicable to products liability claims. Policy No. 031001 as issued provides property damage coverage subject to a limit of $100,000 each accident, as well

as an aggregate limit of $300,000 applicable only and separately to products claims, operations claims, protective claims, and contractual liability claims. The liability coverage provided by Policy No. 031001 as issued is excess of a $25,000 self-insured retention that applies each accident to bodily injury and property damage combined

28. Policy No. 31001 as issued obligated Transport to defend Vulcan in any suit seeking damages on account of alleged bodily injury or property damage. This duty to defend obligated Transport to provide an immediate, "first dollar" defense, *i.e.*, Vulcan need not have incurred a liability to pay damages in excess of the self-insured retention before Transport's duty to defend arises. The amounts incurred by Transport to defend suits against Vulcan were payable by Transport in addition to the policy limits and were not subject to any monetary limit.

29. Policy No. 031001 as issued included a "Continuous Endorsement" which provides that, by paying a renewal premium, the Policy may be continued in force past its January 1, 1965, expiration date, for successive twelve-month policy periods. Vulcan is informed and believes, and on that basis alleges, that Policy No. 031001 was continued in force for seven additional twelve-month policy periods, from January 1, 1965, to January 1, 1972.

30. Policy No. 031001 was amended as of March 18, 1965. Policy No. 031001 was amended to apply in terms of "occurrences" rather than "accidents," and to provide that the "each accident" limits described in Paragraph 27 hereinabove would apply "each occurrence." Similarly, the $25,000 self-insured retention was amended to apply to "each occurrence."

31. Policy No. 031001 as amended March 18, 1965, gives Vulcan the right to investigate, defend and settle claims made against Vulcan. Policy No. 031001 as amended obligates Transport to indemnify Vulcan against investigation, adjustment and legal expenses incurred by Vulcan in investigating, defending and settling claims made against Vulcan in any case resolved for an amount in excess of the $25,000 self-insured retention. The amounts incurred by Transport to indemnify Vulcan against investigation, adjustment and legal expenses are payable by Transport in addition to the policy limits, in an amount determined according to the ratio that Transport's proportion of the loss as finally adjusted bears to the whole amount of such loss.

32. As of the January 1, 1970, renewal, the self-insured retention provided by Policy No. 031001 was increased to $50,000 each occurrence.

33. Policy No. GLX-731-76-1 was issued for the policy period January 1, 1976, to January 1, 1978. Policy No. GLX-731-76-1 provides insurance coverage for all sums Vulcan becomes obligated to pay by reason of liability for damages on account of personal injury (including bodily injury) or property damage caused by or arising out of an occurrence. The Policy additionally covers all sums paid as law costs, expenses for lawyers, investigators, and other persons, and for litigation, settlement, adjustment and investigation of claims and suits. Policy No. GLX-731-76-1 provides coverage subject to limits of $10 million each occurrence (personal injury and property damage combined), as well an annual aggregate limit of $10 million solely applicable to products liability claims. The liability coverage provided by Policy No. GLX-731-76-1 is excess of a $100,000 self-insured retention that applies each occurrence to personal injury and property damage combined.

34. Policy No. GLX-731-78-1 was issued for the policy period January 1, 1978, to January 1, 1981. Policy No. GLX-731-78-1 provides insurance coverage for all sums Vulcan becomes obligated to pay by reason of liability for damages on account of personal injury (including bodily injury) or property damage caused by or arising out of an occurrence. The Policy additionally covers all sums paid as law costs, expenses for lawyers, investigators, and other persons, and for litigation, settlement, adjustment and investigation of claims and suits. Policy No. GLX-731-78-1 provides coverage subject to limits of $10 million each occurrence (personal injury and property damage combined), as well an annual aggregate limit of $10 million solely applicable to products liability claims. The liability coverage provided by Policy No. GLX-731-78-1 is excess of a $100,000 self-insured retention that applies each occurrence to personal injury and property damage combined.

35. Policy No. XGL-731-81-1 was issued for the policy period January 1, 1981, to January 1, 1982 ("1981 Transport Policy"). The 1981 Transport Policy provides insurance coverage for all sums Vulcan becomes legally obligated to pay as damages because of personal injury (including bodily injury) or property damage. The 1981 Transport Policy provides

coverage subject to limits of $10 million each occurrence (personal injury and property damage combined), as well an annual aggregate limit of $10 million solely applicable to products liability claims. The liability coverage provided by the 1981 Transport Policy is excess of a $100,000 self-insured retention that applies each occurrence to personal injury and property damage combined.

36. The 1981 Transport Policy obligates Transport to defend Vulcan in any suit seeking damages on account of personal injury or property damage not within the terms of the coverage of underlying insurance policies identified in the 1981 Transport Policy's Schedule A. This duty to defend obligates Transport to provide an immediate, "first dollar" defense, *i.e.*, Vulcan need not have incurred a liability to pay damages in excess of the self-insured retention before Transport's duty to defend arises. *Legacy Vulcan Corp. v. Superior Court* (2010) 185 Cal.App.4th 677. The amounts incurred by Transport to defend suits against Vulcan are payable by Transport in addition to the policy limits and are not subject to any monetary limit.

37. First State issued liability insurance policy number 917381 to Vulcan for the period January 1, 1981, to January 1, 1982 ("First State Policy"). The First State Policy provides insurance coverage in excess of the coverage provided by the immediately underlying 1981 Transport Policy. The First State Policy provides insurance coverage for all sums Vulcan becomes obligated to pay by reason of liability for damages because of personal injury (including bodily injury) or property damage caused by an occurrence. The First State Policy provides coverage subject to limits of $5 million each occurrence (personal injury and property damage combined), as well an annual aggregate limit of $5 million solely applicable to products liability claims.

38. Once the aggregate limit of the underlying 1981 Transport Policy has been exhausted and Transport no longer has a duty to defend, the First State Policy obligates First State to defend Vulcan in any suit against Vulcan alleging personal injury or property damage occurring during the First State Policy period. This duty to defend obligates First State to provide an immediate, "first dollar" defense, *i.e.*, Vulcan need not have incurred a liability to pay damages in excess of any self-insured retention before First State's duty to defend arises.

The amounts incurred by First State to defend suits against Vulcan are payable by First State in addition to the policy limits and are not subject to any monetary limit.

39. ERC issued liability insurance policies number U-4114-70 and U-4114-73 to Vulcan for the periods January 1, 1969, to January 1, 1970, and January 1, 1970, to January 1, 1972, respectively ("ERC Policies"). The ERC Policies provide insurance coverage in excess of the coverage provided by the immediately underlying Transport Policy No. 031001. The ERC Policies provide insurance coverage for all sums Vulcan becomes obligated to pay by reason of liability for damages because of personal injury (including bodily injury) or property damage caused by an occurrence. Each ERC Policy provides coverage subject to limits of $10 million each occurrence (personal injury and property damage combined), as well an annual aggregate limit of $10 million solely applicable to products liability claims.

40. Each of the ERC Policies provides that, "If no other insurer has the right and duty to do so, [ERC] shall have the right and duty to defend any suit against [Vulcan] seeking damages on account of such personal injury or property damage, even if any of the allegations of the suit are groundless, false or fraudulent ... ." This duty to defend obligates ERC to provide an immediate, "first dollar" defense, *i.e.*, Vulcan need not have incurred a liability to pay damages in excess of any self-insured retention before ERC's duty to defend arises. The amounts incurred by ERC to defend suits against Vulcan are payable by ERC in addition to the policy limits and are not subject to any monetary limit. (The Transport Policies, the First State Policy and the ERC Policies are sometimes collectively referred to as "Policies.")

41. The liability coverage provided by each Policy is "triggered" and obligates the issuing Insurer to provide coverage if an accident or occurrence leading to liability resulted in injury or damage during the policy period. In a case involving continuing or repeated damage or injury occurring over a period of time, each Policy in effect during that period of time is "triggered" and separately and independently requires the issuing Insurer to pay the entire amount Vulcan becomes legally obligated to pay because of the occurrence (subject to policy limits). If more than one Policy is "triggered," Vulcan may select any one of the "triggered" Policies and call on the issuing Insurer to pay the entire amount of Vulcan's legal liability.

42. Each Insurer's duty to defend arises with respect to any suit as alleged or otherwise would or at least potentially could lead to a liability covered by the Insurer's Policy.

FIRST CAUSE OF ACTION

(Breach Of Contract, against Transport)

43. Vulcan re-alleges and incorporates by reference each of the allegations made herein at Paragraphs 1 through 15, inclusive, 20 through 36, inclusive, and 41 through 42, inclusive, as though fully set forth at this place.

44. Each of the Underlying Actions as alleged or otherwise would or at least potentially could lead to a liability covered by the 1981 Transport Policy.

45. Vulcan timely notified Transport of the Underlying Actions.

46. Transport has failed and refused to defend Vulcan in and against the Underlying Actions.

47. Transport, in failing and refusing to defend Vulcan in and against the Underlying Actions, breached and continues to breach its contractual duty to defend Vulcan in the Underlying Actions.

48. As a direct and proximate result of Transport's breaches of its contractual obligation to defend Vulcan in the Underlying Actions, as alleged herein, Vulcan has suffered damages and is entitled to recover from Transport an amount substantially in excess of $10 million, plus prejudgment interest. Vulcan's damages due to Transport's ongoing breaches of its duty to defend Vulcan in and against the Underlying Actions are continuing and are expected to increase by the time of trial. Vulcan reserves its right to amend and will amend its Amended Complaint to set forth with precision the amount of its total damages when ascertained.

SECOND CAUSE OF ACTION

(Breach Of Duty to Provide Independent Counsel, against Transport)

49. Vulcan re-alleges and incorporates by reference each of the allegations made herein at Paragraphs 1 through 15, inclusive, 20 through 36, inclusive, 41 through 42, inclusive, and 44 through 48, inclusive, as though fully set forth at this place.

50. Transport has failed and refused to provide Vulcan with independent counsel to represent and defend Vulcan in and against the Underlying Actions, and has failed and refused to consent to Vulcan's selection of independent counsel and to pay the fees and costs of independent counsel representing and defending Vulcan in and against the Underlying Actions.

51. Transport, in failing and refusing to provide Vulcan with independent counsel to represent and defend Vulcan in and against the Underlying Actions, and in failing and refusing to consent to Vulcan's selection of independent counsel and to pay the fees and costs of independent counsel representing and defending Vulcan in and against the Underlying Actions, breached and continues to breach its duty to provide Vulcan with independent counsel.

52. As a direct and proximate result of Transport's breaches of its duty to provide Vulcan with independent counsel to represent and defend Vulcan in and against the Underlying Actions, Vulcan has suffered damages and is entitled to recover from Transport an amount substantially in excess of $10 million, plus prejudgment interest. Vulcan's damages due to Transport's ongoing breaches of its duty to provide independent counsel are continuing, and are expected to increase by the time of trial. Vulcan reserves its right to amend and will amend its Amended Complaint to set forth with precision the amount of its total damages when ascertained.

THIRD CAUSE OF ACTION

(Breach of the Implied Covenant of Good Faith and Fair Dealing, against Transport)

53. Vulcan re-alleges and incorporates by reference each of the allegations made herein at Paragraphs 1 through 15, inclusive, 20 through 36, inclusive, 41 through 42, inclusive, 44 through 48, inclusive, and 50 through 52, inclusive, as though fully set forth at this place.

54. Implied in each of the Transport Policies is a covenant that Transport will act in good faith and deal fairly with Vulcan; that it will do nothing to interfere with Vulcan's right to receive the benefits of the Policy; that it will place Vulcan's interests before its own interests; that it will exercise diligence, good faith and fidelity in safeguarding Vulcan's interests; and that it will deal ethically with Vulcan and will fairly and adequately inform Vulcan with respect to

the nature and scope of its insurance coverage (hereinafter referred to as "the covenant of good faith and fair dealing").

55. Transport is an inactive insurance company in run-off. Transport does not and will not market or underwrite any new insurance business. Transport has no premium income. Transport's only "business" is resolving claims against so-called "legacy" policies, without the benefit of premium income, relying solely on investment income, reserves, and reinsurance as sources of payment.

56. Transport is not in the business of attracting new customers or retaining old customers for its insurance products, because it no longer offers any insurance products. Transport therefore lacks incentive to conduct its insurance claim-handling in a fair manner that encourages legacy policy holders and others to continue buying or begin buying insurance from Transport. Transport's only continuing interest in its dealings with its legacy policy holders is its interest in resolving those policy holders' claims for as little money as possible.

57. Randall & Quilter Investment Holdings plc ("Randall & Quilter) bought Transport in late 2004. Randall & Quilter owns and operates Transport through its U.S. subsidiary, Randall & Quilter America Holdings, Inc. ("R&Q America"). Randall & Quilter operates a profitable business by which it "manages, acquires and realises the surplus assets of solvent non-life insurance companies in run-off." Randall & Quilter's Insurance Investments Division acquires solvent insurance companies in run-off, and "seeks to realise surplus assets within such companies once their liabilities have been reduced and regulatory approval to release surpluses has been obtained and achieves complete exits through schemes of arrangements, transfer or sale."

58. Vulcan is informed and believes, and on that basis alleges, that one strategy used by Randall & Quilter, R&Q America and Transport in their effort to "realise surplus assets" by "reducing liabilities" – to "exit" the business with a substantial "released surplus" – is to obtain from as many legacy policy holders as possible their agreement to "commute" or cancel their Transport policies, thus making those policies unavailable to pay and not financially accountable for future claims.

59. Vulcan is informed and believes, and on that basis alleges, that Transport engages in a pattern and regular business practice of resisting and contesting valid insurance claims, of delaying the processing and resolution of valid insurance claims, and of failing and refusing to make payment on valid insurance claims, both as a way to reduce liabilities and generate a surplus – not for the benefit of a pool of current and future policy holders, but for the benefit and bottom line profit of Randall & Quilter – and as a tactic to drive down the value of legacy policies, to discourage legacy policy holders from continuing to rely on their Transport policies as risk management assets, and to pressure legacy policy holders to commute their Transport policies for inadequate consideration.

60. Beginning in January 2005, just two months after Randall & Quilter acquired Transport, Transport (acting under the control of and/or in concert with Randall & Quilter and R&Q America) embarked on a concerted effort and campaign to deny and avoid any obligation to Vulcan under the Transport Policies, with the intent and purpose to harass and intimidate Vulcan and thereby discourage Vulcan from pursuing its contractual and other rights to insurance coverage pursuant to those Policies, and to force Vulcan to commute and/or abandon its legal rights in the Transport Policies for inadequate or no consideration. This concerted effort and campaign has continued to this day for nearly eight and one-half (8 1/2) years now.

61. In accordance with and pursuant to this concerted effort and campaign, Transport has unreasonably delayed, denied, refused and failed to defend Vulcan in and against the Underlying Actions; Transport has unreasonably delayed, denied, refused and failed to provide Vulcan with independent counsel to represent and defend Vulcan in and against the Underlying Actions; and Transport has unreasonably delayed, denied, refused and failed to consent to Vulcan's selection of independent counsel and to pay the fees and costs of independent counsel representing and defending Vulcan in and against the Underlying Actions, all without any reasonable good faith basis for doing so. Transport has denied, delayed, failed and refused to provide for Vulcan's defense solely out of concern for Transport's own financial well-being, including the financial well-being of its ultimate owner, Randall & Quilter, and in complete and conscious disregard of Vulcan's financial well-being and Vulcan's rights under

the 1981 Transport Policy and under law. Transport has done so for the purpose of consciously depriving Vulcan of the rights and benefits to which Vulcan is entitled under that Policy and by law and, in so doing, Transport has placed its own interests above those of Vulcan for the purpose of retaining and utilizing money which should have been paid to defend or for the defense of Vulcan in and against the Underlying Actions.

62. By such wrongful conduct, Transport has violated and breached its covenant of good faith and fair dealing.

63. By reason of Transport's violation and breach of its covenant of good faith and fair dealing as alleged herein, Vulcan has sustained substantial damages, including disbursements relating to insurance coverage litigation and attorneys fees and costs. These sums are expected to increase by the time of trial. Vulcan reserves its right to amend and will amend its Amended Complaint to set forth with precision the amount of its total damages when ascertained.

64. Vulcan is informed and believes, and on that basis alleges, that in taking such actions, Transport's conduct has been and is despicable in that Transport has acted willfully with malice, fraud, and/or oppression, as defined in Civil Code Section 3294, so as to deprive Vulcan of its rights and benefits under the 1981 Transport Policy and under law, with conscious disregard of the consequences of these acts on Vulcan, and with the deliberate intent to vex, injure and annoy Vulcan and advance Transport and its owners' own pecuniary interests.

65. As a result of Transport's wrongful conduct, as alleged herein, Vulcan is entitled to recover its damages, including attorneys fees and expenses, and to claim and recover punitive damages from Transport, in an amount sufficient to punish and make an example of Transport in order to deter such conduct in the future.

FOURTH CAUSE OF ACTION

(Declaratory Relief, against First State)

66. Vulcan re-alleges and incorporates by reference each of the allegations made herein at Paragraphs 1 through 17, inclusive, 20 through 38, inclusive, and 41 through 42, inclusive, as though fully set forth at this place.

67. Vulcan seeks a declaration of its rights under the First State Policy in accordance with §§ 1060 and 379 of the California Code of Civil Procedure.

68. An actual and justiciable controversy exists between Vulcan and First State concerning First State's contractual obligation to defend Vulcan in and against the Underlying Actions.

69. Vulcan contends and desires a judicial determination and declaration that, if and when the 1981 Transport Policy's "products hazard" aggregate limit is exhausted, First State has a duty to defend Vulcan in and against the PerSec Claims and Float-Sink Lab Claims.

70. Vulcan is informed and believes, and on that basis alleges, that First State's contentions concerning the parties' respective rights and duties with respect to Transport's continuing duty to defend Vulcan in and against the PerSec and Float-Sink Lab Claims and First State's obligation to defend Vulcan in and against those Claims if and when the 1981 Transport Policy's "products hazard" aggregate limit is exhausted are in conflict with the contentions of Transport and Vulcan.

71. Vulcan desires a judicial determination of the respective rights and duties of the parties and a declaration that its contention, as set forth above, is correct. Such a declaration is necessary and proper at this time in order that all the parties will be bound by the same interpretation of the Policies and may determine their rights and obligations among themselves, and so as to avoid the multiplicity of legal actions that would otherwise be necessary.

FIFTH CAUSE OF ACTION

(Declaratory Relief, against ERC)

72. Vulcan re-alleges and incorporates by reference each of the allegations made herein at Paragraphs 1 through 42, inclusive, and 67 through 71, as though fully set forth at this place.

73. Vulcan seeks a declaration of its rights under the First State Policy in accordance with §§ 1060 and 379 of the California Code of Civil Procedure.

74. An actual and justiciable controversy exists between Vulcan and ERC concerning ERC's contractual obligation to defend Vulcan in and against the Underlying and Actions.

75. Vulcan contends and desires a judicial determination and declaration that, if First State does not have a duty to defend Vulcan in and against the PerSec Claims and Float-Sink Lab if and when the 1981 Transport Policy's "products hazard" aggregate limit becomes exhausted Claims, then ERC has a duty to defend Vulcan in and against the PerSec Claims and the Float-Sink Lab Claims.

76. Vulcan is informed and believes, and on that basis alleges, that ERC's contentions concerning the parties' respective rights and duties with respect to Transport's continuing duty to defend Vulcan in and against the PerSec and Float-Sink Lab Claims, First State's obligation to defend Vulcan in and against those Claims if and when the 1981 Transport Policy's "products hazard" aggregate limit is exhausted, and ERC's obligation to defend Vulcan in and against those Claims if First State does not have a duty to defend are in conflict with the contentions of Transport, First State and Vulcan.

77. Vulcan desires a judicial determination of the respective rights and duties of the parties and a declaration that its contention, as set forth above, is correct. Such a declaration is necessary and proper at this time in order that all the parties will be bound by the same interpretation of the Policies and may determine their rights and obligations among themselves, and so as to avoid the multiplicity of legal actions that would otherwise be necessary.

PRAYER FOR RELIEF

WHEREFORE, Vulcan prays for judgment as follows:

A. On its First Cause of Action, compensatory damages against Transport in an amount substantially in excess of $10 million, according to proof at trial, and interest thereon.

B. On its Second Cause of Action, compensatory damages against Transport in an amount substantially in excess of $10 million, according to proof at trial, and interest thereon.

C. On its Third Cause of Action:

(1) Compensatory damages against Transport, according to proof at trial, in an amount sufficient to compensate Vulcan for amounts it has been forced to incur as a direct and proximate result of Transport's breach of the implied covenant of good faith and fair dealing, including but not limited to Vulcan's attorney's fees and expenses, and interest thereon; and

(2) Exemplary and punitive damages against Transport in an amount sufficient to punish and make an example of Transport for its conscious and malicious disregard of Vulcan's legal rights and to deter similar tortious misconduct in the future;

D. On its Fourth Cause of Action, a declaration that if and when the 1981 Transport Policy's "products hazard" aggregate limit is exhausted, First State has a duty to defend Vulcan in and against the PerSec Claims and the Float-Sink Lab Claims.

E. On its Fifth Cause of Action, a declaration that if First State does not have a duty to defend Vulcan in and against the PerSec Claims and the Float-Sink Lab Claims if and when the 1981 Transport Policy's "products hazard" aggregate limit becomes exhausted, then ERC has a duty to defend Vulcan in and against the PerSec Claims and the Float-Sink Lab Claims.

F. For costs of suit and attorneys fees, as allowed by law; and

G. For such other relief as the Court deems just and proper.

DATED: May 9, 2013

COVINGTON & BURLING LLP

By: _____
Donald W. Brown

Attorneys for Plaintiff
Legacy Vulcan Corp.

Exhibit A

EXHIBIT A to Legacy Vulcan Corp.'s Amended Complaint dated May 9, 2013

	UNDERLYING ACTIONS	CLAIM TYPE
1	*Suffolk County Water Authority v. Dow Chem. Co., et al.*, No. 10-cv-01803 (dismissed), re-filed as *Suffolk County Water Authority v. Dow Chem. Co., et al.*, Index No. 024852 / 2010 (N.Y. Sup. Ct., filed July 12, 2010)	PerSec
2	*City of Sunnyvale, et al., v. Legacy Vulcan Corporation f/k/a Vulcan Materials Co., et al.*, No. CIV 479196 (Cal. Super. Ct., San Mateo C'ty, filed Dec. 10, 2008)	PerSec
3	*California Water Service Co. v. Dow Chem. Co., et al.*, No. CIV 473093 (Cal. Super. Ct., San Mateo C'ty, filed May 22, 2008)	PerSec
4	*Robert Mathes, Comm'r of the Dept. of Planning and Natural Resources, as Trustee for Natural Resources of the Territory of the U.S. Virgin Islands and as Assignee of the Claims of L'Henri, Inc. v. Vulcan Materials Co., et al.*, No. 2006/229 (D.V.I.)	PerSec
5	*L'Henri, Inc. d/b/a O'Henry Cleaners, et al. v. Vulcan Materials Co., et al.*, No. 2006/177 (D.V.I.)	PerSec
6	*U.S. Virgin Islands, et al. v. Vulcan Materials Co., et al.*, No. 2005/0201 (D.V.I.)	PerSec
7	*Addair, et al. v. Litwar Processing Co., LLC, et al.*, No. 04-C-252 (W. Va. Cir. Ct., Wyo. C'ty)	Float-Sink Lab
8	*In re: Float-Sink Litig. (Blount v. Arkema, Inc., et al.)*, No. 11-C-5000000 (Raleigh C'ty Cir. Ct., W. Va.) (> 100 cases assigned to Mass Litigation Panel)	Float-Sink Lab

	UNDERLYING ACTIONS	CLAIM TYPE
9	*Carolina Power & Light Co. v. 3M Co., et al.*, Nos. 5:08-cv-00460-FL, 5:09-cv-00190-FL (E.D.N.C., filed Sept. 15, 2008)	Ward Transformer
10	*Consolidation Coal Co. v. 3M Co. et al.*, No. 5:08-cv-00463-FL, 5:09-cv-00191-FL (E.D.N.C., filed Sept. 15, 2008)	Ward Transformer
11	*New Jersey Dept. of Environmental Protection, et al. v. Occidental Chem. Co., et al.*, No. L-009868-05 (N.J. Super. Ct., Essex C'ty) (third-party complaint filed Feb. 4, 2009)	Passaic River
12	> 325 claimants in lawsuits filed in Louisiana; approximately 35 claims have been settled, 104 dismissed, and 196 are pending.	Asbestos
13	*Turner, et al. v. A.W. Chesterton, et al.*, No. 10-L-943 (Ill. Cir. Ct., Madison C'ty)	Asbestos
14	*Fellion v. 3M Co., et al.*, No. 13-L-371 (Ill. Cir. Ct., Madison C'ty)	Asbestos

PROOF OF SERVICE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

I am a citizen of the United States. My business address is One Front Street, 35th Floor, San Francisco, California 94111. I am employed in the City and County of San Francisco where this service takes place. I am over the age of 18 years, and not a party to the within cause. I am readily familiar with my employer's normal business practice for collection and processing of correspondence for mailing with the U.S. Postal Service. On the date set forth below, I served the foregoing document(s) described as:

LEGACY VULCAN CORP.'S AMENDED COMPLAINT FOR DAMAGES FOR BREACH OF CONTRACT; FOR DAMAGES FOR BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING; AND FOR DECLARATORY RELIEF

on counsel of record in the consolidated action.

[X] **(ELECTRONIC MEANS VIA FILE & SERVEXPRESS)** I posted it to the File & ServeXpress website in accordance with that site's procedures.

[X] **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 9, 2013, at San Francisco, California.

James Fabian

JAMES FABIAN

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
Certain Underwriters at Lloyd's London

(b) County of Residence of First Listed Plaintiff United Kingdom
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Joseph K. Scully, Day Pitney LLP
242 Trumbull Street
Hartford, CT 06103 860-275-0100

DEFENDANTS
Transport Insurance Company

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☒ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☒ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
9 U.S.C. 201 et. seq.
Brief description of cause:
Petition to Confirm Arbitration Award

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P. **DEMAND $** CHECK YES only if demanded in complaint: **JURY DEMAND:** ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY *(See instructions)*: JUDGE _____ DOCKET NUMBER _____

DATE
06/11/2015

SIGNATURE OF ATTORNEY OF RECORD Joseph K Scully by EPR

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. **Title of case (name of first party on each side only)** Certain Underwriters at Lloyd's London v. Transport Insurance Company

2. **Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).**

☐ **I.** **410, 441, 470, 535, 830*, 891, 893, 895, R.23, REGARDLESS OF NATURE OF SUIT.**

☐ **II.** **110, 130, 140, 160, 190, 196, 230, 240, 290,320,362, 370, 371, 380, 430, 440, 442, 443, 445, 446, 448, 710, 720, 740, 790, 820*, 840*, 850, 870, 871.**

☑ **III.** **120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 367, 368, 375, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 625, 690, 751, 791, 861-865, 890, 896, 899, 950.**

***Also complete AO 120 or AO 121. for patent, trademark or copyright cases.**

3. **Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.**

4. **Has a prior action between the same parties and based on the same claim ever been filed in this court?**

YES ☐ **NO** ☑

5. **Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)**

YES ☐ **NO** ☑

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ **NO** ☐

6. **Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?**

YES ☐ **NO** ☑

7. **Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).**

YES ☑ **NO** ☐

A. **If yes, in which division do all of the non-governmental parties reside?**

Eastern Division ☑ **Central Division** ☐ **Western Division** ☐

B. **If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?**

Eastern Division ☐ **Central Division** ☐ **Western Division** ☐

8. **If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)**

YES ☐ **NO** ☑

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Joseph K. Scully

ADDRESS 242 Trumbull Street, Hartford, CT 06103

TELEPHONE NO. 860-275-0100