

LEXINGTON INSURANCE COMPANY EXCESS FLOOD INSURANCE POLICY

Read this policy carefully. The coverage provided is subject to **limitations, restrictions and exclusions.** This policy provides excess flood insurance and shall not apply until the amount of **"Loss"** exceeds the **"Underlying Insurance"** limits.

In consideration of the payment of the premium, in reliance upon the statements in the Declarations Page, and subject to all the terms of this policy, the insurer specified in the Declarations Page (hereinafter referred to as **"We," "our,"** and **"us"**) hereby agrees with the named Insured stated in the Declarations Page and the named Insured's legal representative (hereinafter referred to as **"You"** and **"Your"**) as follows:

SECTION 1 - INSURING AGREEMENT

"We" hereby agree to indemnify **"you"** against direct physical **"Loss"** by or from flood to the property specified in the Declarations Page in accordance with all of the applicable provisions of this policy occurring during the policy period specified in the Declarations Page, and in excess of the **"Underlying Insurance."**

The provisions of the **"Underlying Insurance"** in effect at the inception date of this policy are hereby incorporated into and made a part of this policy unless they are inconsistent with the provisions of this policy or any endorsement attached hereto.

SECTION 2 - DEFINITIONS

"Primary or Underlying Insurance" shall mean the standard flood insurance policy issued by the **"Primary Insurer"** pursuant to the National Flood Insurance Act of 1968 and all laws amendatory thereof or supplementary thereto, and shall include all renewals and replacements thereof and endorsements thereto.

"Primary or Underlying Insurer" shall mean the National Flood Insurance Program (NFIP) or Write Your Own (WYO) insurance company issuing the primary insurance.

"Loss" shall mean direct physical loss by or from flood for which coverage is afforded under the **"Primary Insurance"** without regard to the policy limits of the **"Primary Insurance."**

SECTION 3 - EXCLUSIONS

In addition to the Exclusions set forth in the **"Underlying Insurance"** policy or policies, this policy does not cover any of the following:

1. Debris removal.
2. **"Loss"** assessment charged against **"you"** by a corporation or association of property owners.
3. **"Loss"** occasioned directly or indirectly by enforcement of any ordinance or law regulating the use, construction, repair or demolition of property.
4. **"Loss"** caused by flood which is confined to the location of the covered property.

SECTION 4 - LIMIT OF LIABILITY & UNDERLYING INSURANCE LIMITS

In the event of "Loss" to a covered property, "we" shall not be liable until the amount of "Loss" exceeds the "Underlying Insurance" limits, and then "we" shall be liable for only that portion of the "Loss" which is in excess of the "Underlying Insurance", whether or not such insurance is in force or collectible at the time of the "Loss". "Our" limit of liability for each "Loss" covered hereunder shall not exceed the applicable amount stated on the Declarations Page.

SECTION 5 - CONDITIONS

- 1. Maintenance of Underlying Insurance:** It is a condition hereunder that "Underlying Insurance" be maintained in full effect during the policy period. In the event the "Underlying Insurance", or a component of the "Underlying Insurance" is terminated, the coverage hereunder shall be deemed automatically canceled simultaneously with the termination of the "Underlying Insurance" or a component thereof.

The insolvency, receivership, bankruptcy, liquidation or failure to pay of an "Underlying Insurer"(s) or of any other insurer liable for "Loss" shall not operate to (a) reduce, deplete, or exhaust the policy limits of the "Underlying Insurance" or any other insurance applicable to such "Loss", or (b) increase "our" liability under this policy. In no event shall "our" policy assume the responsibilities or obligations of the "Underlying Insurer"(s) or any other insurer.

- 2. Loss Payment:** With respect to "Loss", "we" shall be liable for only that portion of the "Loss" which is excess of the applicable limit of the "Primary Insurance" for the covered property or the maximum coverage limit available through the National Flood Insurance Program whichever is greater. No "Loss" proceeds shall be paid hereunder until such time as the "Primary Insurer" has paid its full limit of liability for the covered property.
- 3. Notification of Claims:** "You" shall give prompt notice to "us" of any claim for "Loss" covered hereunder. "You" shall upon request give "us" or the persons or firm "we" designate, such information as "we" may reasonably require, including but not limited to: a copy of the "Underlying Insurance"; copies of all proofs of loss filed with the "Underlying Insurers," evidence of all loss payments made under the "Underlying Insurance". "We" shall have the right to adjust any "Loss" insured under this policy independent of any determination or settlement made by the "Underlying Insurer"(s).
- 4. Other Insurance:** If a "Loss" covered by this policy is also covered by other insurance except the "Underlying Insurance", whether collectible or not, the insurance under this policy shall be excess of and shall not contribute with such other insurance unless such other insurance is written only as specific excess insurance over the limits of liability of this policy.
- 5. Cancellation:** This insurance may be canceled by "you" at any time upon "your" written request to "our" representative stating when such cancellation shall become effective or by "us" upon not less than thirty (30) days advance written notice to "you". Except as provided below, if this insurance is canceled by "you" or canceled by "us" at any time, "we" will refund to "you" the unearned portion of the premium hereon, determined on a pro rata basis, subject to "our" minimum earned premium specified in the Declarations Page. In the event of a claim hereunder or a "Loss" which is likely to result in a claim hereunder, the total premium specified on the Declarations Page shall be automatically deemed to be fully earned.

6. Minimum Earned Premium Clause: In the event of cancellation of this policy by “you”, the minimum premium listed on the Declaration page shall become fully earned, any provision of the policy to the contrary notwithstanding.

“Your” failure to make timely payment of premium shall be considered a request by “you” for “us” to cancel on “your” behalf. In the event of such cancellation for non-payment of premium, the minimum earned premium shall be due and payable; provided, however, such cancellation shall be rescinded if “you” remit and “we” receive the full policy premium within 10 days after the date of issuance of the cancellation notice. Such remittance and acceptance by “us” shall not affect the minimum earned provision of this policy.

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

8. Subrogation: If payment is made under this policy, “we” shall be subrogated to all “your” rights to recovery against any person or organization, and “you” shall execute and deliver instruments and papers, and do whatever else is necessary to secure such rights. “You” shall do nothing before or after a “Loss” to prejudice such rights of recovery. Because this policy affords excess insurance “we” recognize that “your” rights of recovery cannot always be exclusively subrogated to “us”, in which event “we” agree to cooperate with all interests concerned in the subrogation and recovery. For any amounts recovered through subrogation or otherwise, all interested parties shall be reimbursed in reverse order, beginning with the highest limit of liability and continuing in such order until such recovery is exhausted. Expenses of obtaining such recovery shall be assessed proportionately to the amount recovered by each party.

9. Representations: By acceptance of this policy, “you” agree that:

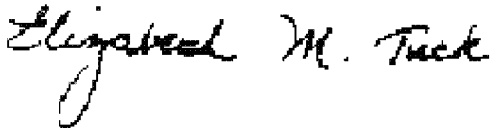
- a. The statements in the Declarations Page and application are “your” agreements and representations; that those statements are accurate and complete; and that this policy is issued in reliance upon the truth of those statements and representations.
- b. If “you” or “your” representative has sworn falsely or has concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, this entire policy shall be void as of the inception date of this policy; and
- c. This policy embodies all agreements between “you” and “us”, or any of “our” agents, relating to this insurance.

10. Service Of Suit Clause: In the event of “our” failure to pay any amount claimed to be due hereunder, “we”, at “your” request, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this condition constitutes or should be understood to constitute a waiver of “our” rights to commence an action in any court of competent jurisdiction in the United States to remove an action to a United States District Court or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon Counsel, Legal Department, Lexington Insurance Company, 100 Summer Street, Boston, Massachusetts, 02110-2103 or his or her representative, and that in any suit instituted against “us” upon this policy, “we” will abide by the final decision of such court or of any appellate court in the event of an appeal.

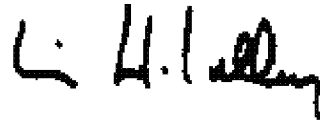
Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefor, "we" hereby designate the Superintendent, Commissioner or Director of Insurance, or other officer specified for that purpose in the statute, or his or her successors in office as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

11. **Assignment:** Assignment of this policy will not be valid unless "we" give our written consent.

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



SECRETARY



CHAIRMAN AND CEO