

**2018-2019  
Property  
Memorandum of Coverage**



**California Joint Powers  
Risk Management Authority**



**CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY  
PROPERTY MEMORANDUM OF COVERAGE  
PROGRAM YEAR: 2018-2019**

LOSS, IF ANY, PAYABLE AS FOLLOWS:

All losses to be adjusted with, and payable to California Joint Powers Risk Management Authority (CJPRMA).

It is agreed that the CJPRMA on the Declarations Page is completed to read as follows:

California Joint Powers Risk Management Authority, all associated, affiliated and/or subsidiary member agencies, corporations, firms, individuals or legal representatives as are now, or as may hereafter be constituted, or any nominee thereof including, but not limited to the following entities:

The Cities of Alameda, Chico, Fairfield, Fremont, Livermore, Lodi, Petaluma, Redding, Richmond, Roseville, San Leandro, San Rafael, Santa Rosa, Stockton, Sunnyvale, Vacaville, and Redwood Empire Municipal Insurance Fund.

It is further understood and agreed that, regarding the CJPRMA: "Member Agency" should be defined as follows:

"Member Agency" or "Member" means any of the public agencies which are a party to this agreement. Each member agency shall include any special districts for which a member agency acts as the governing body and/or for which the member agency is responsible for providing insurance as of the effective date of this agreement or special districts which are added to a membership by board approval.

**1. PROGRAM TERM**

This Memorandum of Coverage document shall be in effect from 12:01 A.M. Pacific Standard Time, July 1, 2018 to 12:01 A.M. Pacific Standard Time, July 1, 2019.

**2. PREMIUM**

The annual property premium for the period July 1, 2018 to July 1, 2019 shall be allocated by individual member.

### **3. LIMITS OF LIABILITY - Reporting of Losses**

#### **All Risk Property**

\$400,000,000	Per occurrence: All Risk, all perils, Coverages and all Named Insureds
\$100,000,000	Per occurrence and annual aggregate as respects to Flood coverage, all zones except; \$25,000,000 per occurrence and annual aggregate; Flood Zones A & V
\$100,000,000	Combined Business Interruption, Rental Income and Tax Revenue
\$100,000,000	Terrorism (Primary Layer)
\$500,000,000	Terrorism (Excess Layer)
\$50,000,000	Extra Expense
\$50,000,000	Errors & Omissions
\$50,000,000	Expediting Expense
\$25,000,000	Course of Construction
\$25,000,000	Miscellaneous Unnamed Locations. This Memorandum of Coverage excludes property at Unnamed Locations not included within the reported TIV.
\$25,000,000	Automatic Acquisition subject to reporting requirements
\$25,000,000	Increased Cost of Construction
\$25,000,000	Transit
\$25,000,000	Off-Premises Services Interruption
\$1,000,000	Unscheduled Landscaping subject to reporting requirements
\$5,000,000 or 110% of scheduled values for scheduled landscaping, trees, sand traps	
\$2,500,000	Money & Securities
\$250,000	Accidental Contamination
\$2,500,000	Unscheduled Fine Arts

\$2,000,000	Unscheduled Tunnels, Bridges, Dams, Catwalks, Roadways, Highways, Streets, Sidewalks, Culverts, Street Lights and Traffic Signals, unless a specific value has been declared. The CJPRMA MOC requires all values of tunnels, bridges, dams and catwalks that have a replacement value in excess of \$2,000,000 be reported within the TIV for coverage to apply. Subject to a \$500,000 deductible for unscheduled Tunnels, Bridges, Dams and Culverts.
\$2,500,000	Unscheduled Animals; not to exceed \$50,000 per Animal
\$2,500,000	Unscheduled Watercraft up to 27 feet. The CJPRMA MOC requires all values in excess of \$50,000 be reported and included within TIV for coverage to apply.
\$3,000,000	Contingent Business Interruption
\$500,000	Jewelry, Furs, Precious Metals
\$1,000,000	Claims Preparation Expense
\$1,000,000	Personal Property Outside of USA
\$5,000,000	Upgrade to Green

### **Boiler & Machinery**

\$100,000,000	Boiler Explosion and Machinery Breakdown
\$25,000,000	Per Occurrence for Service/Utility/Off Premises
\$25,000,000	Newly Acquired Locations-per reporting requirements within this Memorandum of Coverage
\$25,000,000	Ordinance or Law (Including Demolition & ICC)
\$10,000,000	Electronic Data Processing
\$10,000,000	Expediting Expense
\$10,000,000	Hazardous Substances/Pollutants/Decontamination
\$3,000,000	Dependent Property

#### **4. DEDUCTIBLE**

- A. All losses, damages, or expenses arising out of any one occurrence shall be adjusted as one loss and from the amount of such adjusted loss shall be deducted the following sums:

\$100,000 – All Risk

\$100,000 – Boiler & Machinery

\$100,000 – All Flood Zones, except;

\$250,000 – Flood Zones A & V

\$500,000 – Per Occurrence for Unscheduled Tunnels, Bridges, Dams, Culverts unless a specific value has been declared.

Whether the claim involves loss at one or more locations, the deductible amount shall apply against the total loss suffered by the CJPRMA from any one occurrence.

- B. If two or more deductible amounts in this Memorandum of Coverage apply to a single occurrence, the total to be deducted shall not exceed the largest deductible applicable.

#### **5. PROGRAM DEFINITIONS**

The following terms, wherever used in this MOC, shall mean as indicated:

##### **Replacement Cost**

The cost of repairing, replacing, constructing or reconstructing (whichever is the least) the property on the same site, using new materials of like kind and quality and for like occupancy without deduction for depreciation, subject to the following:

- A. Until the property is actually repaired, replaced or reconstructed, the maximum amount recoverable shall be the actual cash value of the lost or damaged property;
- B. Replacement shall be effected by the Named Insured with due diligence and dispatch;
- C. Replacement need not be on the same site, or of same or similar construction or occupancy provided that the Program shall not be liable for any additional cost that are directly attributable to the inclusion of this provision.

- D. For historical building as more specifically defined in this Section.
- E. In no event shall the Program's liability exceed the amount actually and necessarily expended in repairing or replacing (whichever is less) covered Property or any part thereof.

It is understood and agreed that, as respects replacement cost, the Named insured shall have the option of replacement with electrical and mechanical equipment having technological advantages and/or representing an improvement in function and/or forming part of a program of system enhancement provided that such replacement can be accomplished without increasing the Program's liability. The Program shall be allowed to dispose of, as salvage, any non-proprietary property deemed unusable by the Named Insured.

In the event that CJPRMA or its member should fail to comply with any of the foregoing provisions settlement shall be made as if this Replacement Cost provision had not been in effect.

**Actual Cash Value (ACV)**

Replacement cost minus depreciation. Depreciation is the decrease in value over a period of time, usually as a result of age or wear and tear.

**Stated Value**

The cost of repairing, replacing, constructing or reconstructing (whichever is the least) the property on the same site, using new materials of like kind and quality and for like occupancy without deduction for depreciation, but not to exceed the Stated Value declared by the member.

**Automatic Acquisition**

Any property that is either acquired or construction completed during the term of this agreement, the current program year. The limits of coverage and reporting requirements are identified within this MOC.

**Accidental Contamination**

Business Interruption and Property Damage loss as a result of accidental discharge or dispersal from any source to Covered Property, including expenses necessarily incurred to clean up, remove and dispose of contaminated substances so as to restore the Covered Property to the same condition as existed prior to loss. The coverage provided is sub-limited to USD as per Declaration page. If such contamination or dispersal is itself caused by fire, lightning, impact from aircraft, explosion, riot, civil commotion, smoke, collapse, vehicles, windstorm, hail, vandalism, malicious mischief or leakage and accidental discharge from automatic fire protective systems whereupon this extension shall provide coverage up to full limit of liability provided by this Program.

For the purposes of this Accidental Contamination clause only, the term "Covered Property," as covered by this Program, is held to include Land (and Land Values) on

which Covered Property is located whether or not the same are excluded by this Program. It is further understood and agreed that this coverage clause shall not override anything contained in Asbestos Clean Up and Removal in this Program.

### **Contingent Business Interruption**

Business interruption, rental income, tuition income and extra expense coverage provided by this Program is extended to cover loss directly resulting from physical damage to property of the type not otherwise excluded by this Program at direct supplier or direct customer locations that prevents a supplier of goods and/or services to the Named Insured from supplying such goods and/or services, or that prevents a recipient of goods and/or services from the Named Insured from accepting such goods and/or services.

### **Upgrade to Green**

Increased cost of repairing or replacing covered property damaged by a covered cause of loss using materials and methods that are recognized as being "green"—that is, better for the environment, due to energy efficiency, sustainability, etc.

### **Total Insurable Value (TIV)**

The value reported by members to CJPRMA and the underwriters for the values of all structures, tenant improvements, property in the open or other values covered for loss within this MOC. The term Statement of Values is identical in description to TIV for the purposes of this MOC.

### **Fine Arts**

Paintings, etchings; pictures; tapestries; rare or art glass; art glass windows; valuable rugs; statuary; sculptures; antique furniture; antique jewelry; bric-a-brac; porcelains; and similar property of rarity, historical value, or artistic merit, excluding automobiles, coins, stamps, furs, jewelry, precious stones, precious metals, watercraft, aircraft, money and securities, with a maximum limit for all fine arts scheduled under the Program. Coverage for unscheduled fine arts will be subject to a maximum sublimit of \$2,500,000. Fine Arts does not mean and does not include any item which would qualify as Valuable Papers and Records.

### **Miscellaneous Unnamed Location(s)**

A location that has not been included in the Statement of Values on file with the CJPRMA and has not been reported to the CJPRMA as may be required in the Program provisions elsewhere.

### **Valuable Papers and Records**

Documents that are written, printed, on otherwise inscribed. These include:

- A. Books, manuscripts, abstracts, maps and drawings; film and other photographically produced records, such as slides and microfilm;
- B. Legal and financial agreements such as deeds and mortgages;



C. Addressograph plates; and

D. Any electrically produced data such as printouts, punched cards, tapes or discs.

**Valuable Papers and Records** does not mean money and securities and converted data, programs or instructions used in data processing operations, including the materials on which the data is stored.

**Valuable Papers and Records** does not mean and does not include any item which would qualify as Fine Arts.

### **Ordinary Payroll**

The entire payroll expense for all employees of the Insured except officers, executives, department managers, employees under contract, and other essential employees.

## **6. TERRITORY**

This Memorandum of Coverage covers within the 50 states comprising the United States of America, and the District of Columbia.

## **7. COVERAGE**

Except as hereinafter excluded, this Memorandum of Coverage covers:

### **A. Real and Personal Property**

Subject to the terms, conditions and exclusions hereinafter contained, this Memorandum covers all property of every description of an insurable nature, both real and personal (including improvements and betterments) of the covered party or property of others in the care, custody or control of the covered party for which the covered party is liable or under obligation to keep covered.

### **B. Business Interruption**

- (1) Loss resulting from necessary interruption of business conducted by the CJPRMA and caused by loss, damage, or destruction by any of the perils covered herein during the term of this Memorandum of Coverage to real and personal property.
- (2) If such loss occurs during the term of this Memorandum of Coverage, it shall be adjusted on the basis of ACTUAL LOSS SUSTAINED by the CJPRMA, consisting of the net profit which is thereby prevented from being earned and of all charges and expenses (including ordinary payroll), only to the extent that these must necessarily continue during the

interruption of business and only to the extent to which such charges and expenses would have been earned had no loss occurred.

“Ordinary payroll” is defined to be the entire payroll expense for all employees of the CJPRMA except officers, executives, department managers, employees under contract, and other employees whom the CJPRMA at their discretion shall deem necessary.

- (3) However, the CJPRMA shall not be liable for any loss resulting from damage to or destruction of finished stock nor for the time required to reproduce said finished stock. Finished stock shall mean stock manufactured by the CJPRMA which in the ordinary course of the CJPRMA's business is ready for packing, shipment, or sale.
- (4) **Resumption of Operations:** It is a condition of this insurance that if the CJPRMA could reduce the loss resulting from the interruption of business:
  - (a) by a complete or partial resumption of operation of the property CJPRMA, whether damaged or not; or
  - (b) by making use of available stock, merchandise, or other property;

Such reduction shall be taken into account in arriving at the amount of loss hereunder.

- (5) **Experience of the Business:**
  - (a) In determining the amount of net profit, charges, and expenses covered hereunder for the purposes of ascertaining the amount of loss sustained, due consideration shall be given to the experience of the business before the date of damage or destruction and to the probable experience thereafter had no loss occurred.
  - (b) With respect to alterations, additions, and property while in the course of construction, erection, installation, or assembly, due consideration shall be given to the available experience of the business after completion of the construction, erection, installation, or assembly.

### **C. Extra Expense**

- (1) Extra expense incurred resulting from loss or damage to property by any of the perils covered herein during the term of this Memorandum of Coverage.

- (2) “Extra expense” means the excess of the total cost during the period of restoration of the damaged property chargeable to the operation of the CJPRMA’s business over and above the total cost that would normally have been incurred to conduct the business during the same period had no loss or damage occurred.

#### **D. Rental Value**

- (1) Rental value loss sustained by the CJPRMA resulting directly from the necessary untenability caused by loss, damage, or destruction by any of the perils covered herein during the term of this Memorandum of Coverage to real or personal property as described in Section 6.A. but not exceeding the reduction in rental value less charges and expenses which do not necessarily continue during the period of untenability.
- (2) For the purposes of this insurance, “rental value” is defined as the sum of:
  - (a) the total anticipated gross rental income from tenant occupancy of the described property as furnished and equipped by the CJPRMA, and
  - (b) the amount of all charges which are the legal obligation of the tenant(s) and which would otherwise be obligations of the CJPRMA, and
  - (c) the fair rental value of any portion of said property which is occupied by the CJPRMA.
  - (d) any amount due under a revenue bond that is in excess of A, B and C above.
- (3) **Experience of the Business:** In determining the amount of rental value covered hereunder for the purpose of ascertaining the amount of loss sustained, due consideration shall be given to the rental experience before the date of damage or destruction and to the probable experience thereafter had no loss occurred.

#### **E. Soft Costs Applicable to Property in Course of Construction**

- (1) Loss resulting from a Delay in Completion of the project caused by loss, damage, or destruction by any of the perils covered herein during the term of this Memorandum of Coverage to real or personal property described in Section 7 A.

- (2) Recovery in the event of loss hereunder shall be limited to such necessary soft costs as hereinafter described over and above those costs which would have been incurred by the CJPRMA during the Delay in Completion had no loss occurred.

For the purposes of this insurance, "soft costs" are defined as:

- (a) the amount of actual interim or construction financing interest, including loan fees and other one-time charges incurred to negotiate a new construction loan and/or extend the existing one;
- (b) realty taxes and ground rent, if any;
- (c) advertising and promotional expenses;
- (d) cost of additional commissions incurred upon renegotiating leases;
- (e) architects, surveyors, legal, consulting engineers, or other fees;
- (f) project administration expense;
- (g) insurance premiums

**Delay in Completion** is the period of time between the Anticipated Date of Completion and the date on which the project is actually completed and operable with the exercise of due diligence and dispatch.

**Anticipated Date of Completion** is the date at the time of loss on which the project was scheduled to have been completed and operable had no physical loss or damage occurred.

**F. Rental Value Applicable to Property in Course of Construction**

- (1) To the extent not covered under Clause E, Soft Costs, rental value loss sustained by the CJPRMA resulting directly from necessary delay in tenantability of the project caused by loss, damage, or destruction by any of the perils covered herein during the term of this Memorandum of Coverage to real or personal property as described in Section 7 A but not exceeding the reduction in rental value less charges and expenses which do not necessarily continue during the period of recovery.
- (2) For the purposes of this insurance, "rental value" is defined as the sum of:
- (a) the total anticipated gross income from tenant occupancy of the project as furnished and equipped by the CJPRMA, and

- (b) the amount of all charges which are the legal obligation of the tenant(s) and which would otherwise be obligation of the CJPRMA, and
- (c) the fair rental value of any portion of the project which is anticipated to be occupied by the CJPRMA.

**G. Provisions Applicable to Business Interruption, Extra Expense, and Rental Value Coverages**

(1) **Period of Recovery:** The length of time for which loss may be claimed:

- (a) shall not exceed such length of time as would be required with the exercise of due diligence and dispatch to rebuild, repair, or replace such part of the property as has been destroyed or damaged:
- (b) and, such additional length of time to restore the CJPRMA business to the condition that would have existed had no loss occurred, commencing with the later of the following dates:
  - (i) the date on which the liability of the CJPRMA for loss or damage would otherwise terminate; or
  - (ii) the date on which repair, replacement, or rebuilding of such part of the property as has been damaged is actually completed;

but in no event for more than one year from said later commencement date;

- (c) with respect to alterations, additions, and property while in the course of construction, erection, installation, or assembly shall be determined as provided in (a) above but such determined length of time shall be applied to the experience of the business after the business has reached its planned level of production or level of business operation;
- (d) shall commence with the date of such loss or damage and shall not be limited by the date of expiration of this Memorandum of Coverage

(2) **Special Exclusions:** This section of the Memorandum of Coverage does not insure against any increase of loss which may be occasioned by the suspension, lapse, or cancellation of any lease, license, contract, or order; nor for any increase of loss due to interference at the CJPRMA

premises by strikers or other persons who are employees of the CJPRMA with rebuilding, repairing, or replacing the property damaged or destroyed, or with the resumption or continuation of business, or with the reoccupancy of the premises; nor for any loss occurring to property in transit off premises.

- (3) **Expenses to Reduce Loss:** This Memorandum of Coverage also covers such expenses as are necessarily incurred for the purpose of reducing any loss under this Memorandum of Coverage, not exceeding, however, the amount by which the loss under this Memorandum of Coverage is thereby reduced.
- (4) **Extension of Coverage:** This Memorandum of Coverage, subject to all provisions and without increasing the amount of said Memorandum of Coverage, also insures against loss resulting from damage to or destruction by the perils insured against, of:
  - (a) electrical, steam, gas, water, telephone, and other transmission lines and related plants, substations and equipment situated on or outside of the premises;
  - (b) property of a supplier of goods and/or revenue and/or services to the CJPRMA, or a receiver of goods and/or revenue and/or services from the CJPRMA;
  - (c) dams, reservoirs, or equipment connected therewith when water, used as a raw material or used for power or for other manufacturing purposes, stored behind such dams or reservoirs is released from storage and causes an interruption of business as a result of lack of water supply from such sources. (The CJPRMA's liability shall not exceed 30 consecutive days after such length of time as would be required with the exercise of due diligence and dispatch to repair or replace the damaged or destroyed dam, reservoir, or equipment.)
- (5) **Interruption by Civil or Other Authority:** This Memorandum of Coverage is extended to cover the loss sustained during the period of time, not to exceed eight weeks, when, as a direct result of a peril insured against, access to real and personal property is prohibited by order of civil or military authority. Physical Loss or Damage must occur within one mile of city limits for coverage to apply.
- (6) **Ingress/Egress:** This Memorandum of Coverage is extended to cover the loss sustained during the period of time not to exceed 30 days, when as a direct result of a peril insured against, ingress to or egress

from the CJPRMA premises is thereby prevented or impaired. Physical Loss or Damage must occur within twenty miles of city limits for coverage to apply.

#### **H. Transit**

Property in transit, this Memorandum of Coverage attaches and covers shipments within and between the territorial limits of this Memorandum of Coverage, including the coastal waters thereof, by any means of conveyance, from the time the property is moved for purpose of loading and continuously thereafter while awaiting and during loading and unloading and in temporary storage, including temporary storage on any conveyance intended for use for any outbound or used for inbound shipment, including during deviation and delay, until safely delivered into place of final destination.

- (1) This insurance is extended to cover loss or damage to property:
  - (a) sold and shipped by the CJPRMA under terms of F.O.B. point of origin or other terms usually regarded as terminating the shipper's responsibility short of points of delivery
  - (b) arising out of any unauthorized person(s) representing themselves to be the proper party(ies) to receive goods for shipment or to accept goods for delivery
  - (c) occasioned by the acceptance by the CJPRMA by its agents, or by its customers of fraudulent bills of lading, shipping and delivery orders, or similar documents
- (2) The CJPRMA may waive right(s) of recovery against private and contract carriers and accept bills of lading or receipts from carriers, bailees, warehousemen, or processors limiting their liability, but this transit insurance shall not inure to the benefit of any carrier, bailee, warehouseman, or processor.

With respect to shipments made under F.O.B. or similar terms, the CJPRMA agrees to waive its rights of subrogation against consignees at the option of the CJPRMA.
- (3) The CJPRMA is not to be prejudiced by any agreements exempting lightermen from liability.
- (4) Seaworthiness of any vessel or watercraft is admitted by the CJPRMA.

## **I. Accounts Receivable**

- (1) All sums due the CJPRMA from customers, provided the CJPRMA is unable to effect collection thereof as the direct result of loss of or damage to records of accounts receivable;
- (2) Interest charges on any loan to offset impaired collections pending repayment of such sums made uncollectible by such loss or damage;
- (3) Collection expense in excess of normal collection cost and made necessary because of such loss or damage;
- (4) Other expenses, when reasonably incurred by the CJPRMA in reestablishing records of accounts receivable following such loss or damage.

When there is proof that a loss of records of accounts receivable has occurred but the CJPRMA cannot more accurately establish the total amount of accounts receivable outstanding as of the date of such loss, such amount shall be computed as follows:

- (1) The monthly average of accounts receivable during the last available twelve months, together with collection expenses in excess of normal collection costs and made necessary because of such loss or damage, and reasonable expenses incurred in reestablishing records of accounts receivable following such loss or damage, shall be adjusted in accordance with the percentage increase or decrease in the twelve months average of monthly gross revenues which may have occurred in the interim.
- (2) The monthly amount of accounts receivable thus established shall be further adjusted in accordance with any demonstrable variance from the average for the particular month in which the loss occurred, due consideration also being given to the normal fluctuations in the amount of accounts receivable within the fiscal month involved.

There shall be deducted from the total amount of accounts receivable, however established, the amount of such accounts evidenced by records not lost or damaged, or otherwise established or collected by the CJPRMA and an amount to allow for probable bad debts which would normally have been uncollectible by the CJPRMA.

## **J. Leasehold Interest**

- (1) Pro rata proportion from the date of loss to expiration date of the lease (to be paid without discount) on the CJPRMA's interest in:



- (a) the amount of bonus paid by the CJPRMA for the acquisition of the lease not recoverable under the terms of the lease for the unexpired term of the lease;
- (b) improvements and betterments to real property during the unexpired term of the lease which is not covered under any other section of this Memorandum of Coverage;
- (c) the amount of advance rental paid by the CJPRMA and not recoverable under the terms of the lease for the unexpired term of the lease;

when property is rendered wholly or partially untenable by any of the perils covered herein during the term of this Memorandum of Coverage and the lease is canceled by the lessor in accordance with the conditions of the lease or by statutory requirements of the state in which the damaged or destroyed property is located; and

- (a) "Interest of the CJPRMA as Lessee" when property is rendered wholly or partially untenable by any of the perils covered herein during the term of this Memorandum of Coverage and the lease is canceled by the lessor in accordance with the conditions of the lease or by statutory requirements of the state in which the damaged or destroyed property is located.
- (b) The "Interest of the CJPRMA as Lessee" as referred to herein shall be paid for the first three months succeeding the date of the loss and the "Net Lease Interest" shall be paid for the remaining months of the unexpired lease.

(2)

**Definitions**

The following terms, wherever used in this section shall mean as follows:

- (a) the "Interest of the CJPRMA as Lessee" is defined as:
  - (i) the excess of the rental value of similar premises over the actual rental payable by the lessee (including any maintenance or operating charges paid by the lessee) during the unexpired term of the lease
  - (ii) the rental income earned by the CJPRMA from sublease agreements, to the extent not covered under any other section of this Memorandum of Coverage, over and above

the rental expenses specified in the lease between the CJPRMA and the lessor

- (b) "Net Lease Interest" is defined as that sum, which placed at 6% interest compounded annually will be equivalent to the "Interest of the CJPRMA as Lessee".
- (3) The CJPRMA shall not be liable for any increase of loss which may be occasioned by the suspension, lapse or cancellation of any license or by the CJPRMA exercising an option to cancel the lease.

#### **K. Defense Costs**

This Program, subject to all of its provisions, also insures the costs and fees to defend any claim or suit against the Insured and/or its directors, officers and/or employees alleging physical loss or damage as insured against to property of others in the care, custody or control of the Insured to the extent of the Insured's liability therefore, even if such claim or suit is groundless, false or fraudulent; but the CJPRMA may without prejudice make such investigation, negotiation or settlement of any such claim or suit as it deems expedient.

#### **8. PERILS INSURED AGAINST**

This Memorandum of Coverage insures against all risk of direct physical loss of or damage to property described herein including salvage, and all other charges on shipments covered hereunder, except as hereinafter excluded.

Physical loss or damage shall include any destruction, distortion or corruption of any computer data, coding, program or software except as hereinafter excluded subject to a maximum sub limit loss of \$10,000,000.

#### **9. PERILS EXCLUDED**

This Memorandum of Coverage does not insure:

- A. infidelity or dishonesty of the CJPRMA, or any officer or employee thereof, or loss or damage resulting from the CJPRMA voluntarily parting with title or possession of any property if induced to do so by any fraudulent scheme, trick, device or false pretense; nor any unexplained loss, mysterious disappearance, or loss or shortage disclosed on taking inventory.
- B. against the cost of making good defective design or specifications, faulty material, or faulty workmanship; however, this exclusion shall not apply to loss or damage resulting from such defective design or specifications, faulty material, or faulty workmanship;

- C. against electrical injury or disturbance to electrical appliances, devices, or wiring caused by electrical currents artificially generated unless loss or damage from a “specified cause of loss (or peril)” ensues and then this Memorandum of Coverage shall cover for such ensuing loss or damage;
- D. against mechanical breakdown unless loss or damage from a “specified cause of loss (or peril)” ensues and then this Memorandum of Coverage shall cover for such ensuing loss or damage;
- E. against explosion, rupture, or bursting of steam boilers, steam pipes, steam turbines, or steam engines owned or operated by the CJPRMA unless loss or damage from a “specified cause of loss (or peril)” and then this Memorandum of Coverage shall cover for such ensuing loss or damage;
- F. Settling, cracking, shrinking, bulging, or expansion of pavements, foundations, walls, floors, or ceilings; all unless physical damage not otherwise excluded by this Program ensues, in which event, this Program will cover only such ensuing damage; or unless caused by a Peril Insured Against as described in Section 8.
- G. against errors in processing or manufacture of the CJPRMA product unless loss or damage from a “specified cause of loss (or peril)” and then this Memorandum of Coverage shall cover for such ensuing loss or damage;
- H. against ordinary wear, tear, insects & vermin, or gradual deterioration unless other loss or damage from a “specified cause of loss (or peril)” and then this Memorandum of Coverage shall cover for ensuing loss or damage;
- I. against nuclear reaction, nuclear radiation, or radioactive contamination, all whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate, or remote; or be in whole or in part caused by, contributed to, or aggravated by the peril(s) insured against in this Memorandum of Coverage; except;
  - (1) if fire ensues, liability is specifically assumed for direct loss by such ensuing fire but not including any loss due to nuclear reaction, nuclear radiation, or radioactive contamination;
  - (2) the CJPRMA shall be liable for loss or damage caused by sudden and accidental radioactive contamination including resultant radiation damage for each occurrence from material used or stored or from processes conducted on the CJPRMA premises, provided at the time of loss there is neither a nuclear reactor capable of sustaining nuclear fission in a self-supporting chain reaction nor any new or used nuclear fuel on the CJPRMA premises;

- J. (1) against hostile or warlike action in time of peace or war, including action in hindering,  
combating, or defending against an actual, impending, or expected attack:
- (a) by any government or sovereign power (de jure or de facto) or by any authority maintaining or using military, naval, or air forces;
  - (b) or by military, naval, or air forces;
  - (c) or by an agent of any such government, power, authority, or forces;
- (2) against any weapon employing atomic fission;
- (3) against rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering combating, or defending against such occurrence;
- (4) seizure or destruction by order of public authority, except destruction by order of public authority to prevent the spread of fire or explosion;
- (5) risks of contraband or illegal trade
- K. Caused by, resulting from, contributed to or aggravated by earth movement, including but not limited to earthquake, tsunami, landslide, subsidence except mudslide caused by accumulation of water on or under the ground, unless loss by or damage by fire, sprinkler leakage, or explosion ensues, from a peril "specified cause of loss (or peril)" and then this Memorandum of Coverage shall cover only for ensuing loss or damage;
- L. Water
- (1) Flood, surface water, waves, tides, tidal waves, overflow of any body of water, or their spray, all whether driven by wind or not;
  - (2) Water under the ground surface pressing on, or flowing or seeping through:
    - (a) Foundations, walls, floors or paved surfaces;
    - (b) Basements, whether paved or not; or
    - (c) Doors, windows or other openings

But if Water, as described in (1) and (2) above, results in fire, explosion, or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

M. Program includes coverage for physical loss or damage directly caused by any “act of terrorism”. The total limit available to CJPRMA for a terrorism event will be a max of \$400,000,000.

Exclusion B, C, D, E and F do not apply to property in transit.

Exclusions C, D, E, and F do not apply to alterations, additions, and property while in the course of construction, erection, installation, or assembly.

Exclusions C, D, and E do not apply to electronic data processing systems and valuable papers and records.

Exclusion E does not apply to other conveyances CJPRMA herein.

Please refer to Endorsements 1-9 for additional exclusions.

## **10. PROPERTY EXCLUDED**

This Memorandum of Coverage does not cover loss or damage to:

- A. Jewelry, furs, precious or semi-precious stones, gold, silver or platinum or precious alloys;
- B. Growing crops, standing timber, and animals; piers, wharves, docks except for Alameda Piers
- C. Watercraft, aircraft, motor vehicles licensed for highway use except when garaged, stored or in use on the premises of the CJPRMA or others, but this exclusion shall not apply to contractor's equipment;
- D. Waterborne shipments to and from Puerto Rico, the Virgin islands, Hawaii, and Alaska; waterborne shipments via the Panama Canal;
- E. Export shipments after loading on board an overseas vessel or watercraft or after ocean marine insurance attaches, whichever occurs first, and import shipments prior to discharge from the overseas vessel or watercraft or until the ocean marine insurance terminates, whichever occurs last;
- F. Land, land values; however, this, exclusion shall not apply to the cost of reclaiming, restoring or repairing land improvements. Land improvements as described hereunder are defined as any alteration to the natural condition of the land by grading, landscaping, as well as additions to land such as pavements or similar works; with a sub-limit of \$1,000,000

- G. Water; except water which is normally contained within any type of tank, piping system or other process equipment.
- H. Transmission and Distribution Lines other than those within 500 feet of a CJPRMA premises.
- I. All onshore or off shore:
  - (1) gas and oil drilling risks;
  - (2) petrochemical risks;
  - (3) pipeline risks; or
  - (4) gas and oil well risks
- J. Railroad Property, rolling stock tracks or roadbeds.
- K. Bridges, dams as defined by the California Water Code, tunnels and roadways unless the replacement cost values have been declared to the Program and the Program has accepted the risk. There will be an adjustment of any damage to a dam in the event the occurrence involves damages giving rise to a FEMA or OES disaster.

There is also coverage provided within the MOC effective July 1, 2016 that extends coverage to unscheduled dams with a maximum \$2,000,000 sub-limit of coverage.

The definition of a dam is as follows:

Dam means any artificial barrier, together with appurtenant works, which does or may impound or divert water, and which either (a) is 25 feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream, channel or watercourse, to the maximum possible water storage elevation; or (b) has an impounding capacity of 50 acre-feet or more.

Any such barrier which is not in excess of 6 feet in height, regardless of storage capacity, or which has a storage capacity not in excess of 15 acre-feet, regardless of height, shall not be considered a dam.

No obstruction in a canal used to raise or lower water therein or divert water there from, no levee, including but not limited to a levee on the bed of a natural lake the primary purpose of which levee is to control floodwater, no railroad fill or structure, and no road or highway fill or structure, no circular tank constructed of steel or concrete or both, no tank elevated above the ground, and no barrier which is not across a stream channel,

watercourse, or natural drainage area and which has the principal purpose of impounding water for agricultural use shall be considered a dam.

No obstruction in the channel of a stream or watercourse which is 15 feet or less in height from the lowest elevation of the obstruction and which has the single purpose of spreading water within the bed of the stream or watercourse upstream from the construction for percolation underground shall be considered a dam.

The levee of an island adjacent to tidal waters in the Sacramento-San Joaquin Delta, as defined in Section 12220 of the California Water Code, even when used to impound water, shall not be considered a dam and the impoundment shall not be considered a reservoir if the maximum possible water storage elevation of the impounded water does not exceed four feet above mean seal level, as established by the United States Geological Survey 1929 datum.

No noncircular tank, constructed of steel or concrete, or both, that is constructed in a county of the third class by a public agency, under the supervision of a civil engineer registered in the state, that does not exceed 75 acre feet in capacity or 30 feet in height, and no barrier that is not across a stream channel, watercourse, or natural drainage area and that has the principal use as a sewage sludge drying facility shall be considered a dam. Nor shall any impoundment constructed and utilized to hold treated water from a sewage treatment plant be considered a dam. Nor shall any wastewater treatment or storage pond exempted from state regulation and supervision by California Water Code section 6025.5 be considered a dam.

## **11. PROPERTY VALUE REPORTING & LIMITATIONS OF COVERAGE**

- A. Members shall report to CJPRMA any newly acquired property, structure, improvement or property enhancements with a value in excess of \$5,000,000 within ninety days of acquisition. In the event of a loss that occurs to the newly acquired property, structure, improvement or property enhancements after ninety days following acquisition, no coverage will be provided for the incurred damage.
- B. All newly acquired structures with a value under \$5,000,000 must be reported to CJPRMA for the program year immediately following the date of acquisition or by June 30th of the program year. Any structure/improvement acquired that fails to meet this reporting requirement will not be a covered property following the program year within which it was acquired and will not be eligible for any coverage provided by this program.
- C. Any loss occurring at a facility/structure/land improvement of any type included within the definitions within this program, that are not otherwise defined under the requirements in subsection A & B above, will not be covered for a loss in the event the specific location is not included within the TIV reported to CJPRMA.

## **12. VALUATION**

At the time of loss, the basis of adjustment unless otherwise endorsed herein shall be as follows:

- A. stock in process, the value of raw materials and labor expended plus the proper proportion of overhead charges;
- B. finished goods whether or not manufactured by the CJPRMA, the selling price at the location where the loss occurs;
- C. raw materials, supplies and other merchandise not manufactured by the CJPRMA, the replacement cost;
- D. Valuable papers and records: The cost to repair, replace or the cost to reproduce the property with other of like kind and quality including the cost of gathering and/or assembling information; or, if not so replaced, actual cash value.

“Valuable papers and records” are defined as written, printed, or otherwise inscribed documents and records, including but not limited to books, maps, films, drawings, abstracts, deeds, mortgages, micro-inscribed documents, manuscripts, media, data storage devices, program devices for electronic and electromechanical data processing and production equipment but not including money and/or securities.

The term “securities” shall mean all negotiable and non-negotiable instruments or contracts representing either money or other property, and includes revenue and other stamps in current use, tokens, and tickets but does not include money;

- E. As respects Historical Buildings the maximum building limit shall be 130% of the reported value declared to underwriters. Historical Buildings are defined as follows:

Federal: “Certified historic structure includes any building, structure or land area that is listed in the National Register of Historic Places, or Located in a registered historic district and certified by the U.S. Department of the Interior as being historically significant to the district.

State of California: “Historical Landmark” means any historical resource which is registered as a state historical landmark pursuant to Section 5021.

Local: “Local register of historical resources” means a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution.



- F. On manuscripts, mechanical drawings, patterns, electronic data processing media, books of accounting and other valuable papers, the full replacement cost of the property at the time of loss (including expenses incurred to recreate the information lost damaged or destroyed) or what it would then cost to repair, replace or reconstruct the property with other of like kind and quality. If not repaired, replaced, or reconstructed within a reasonable period of time, then not to exceed the cost of blank or unexposed material.
- G. On antique, restored or historical buildings, the cost of acquisition, relocation to the site and renovation or reconstruction. In the event of a partial loss, normal replacement cost coverage as set forth in item A. above, would apply.
- H. Fine Arts – The least of the following:
- (1) the market value;
  - (2) the cost of reasonably restoring the property to its condition immediately before the loss plus reduction in market value, if any; or
  - (3) the cost of replacing the property with substantially identical property
- I. Real and Personal Property
- (1) Buildings, structures, furniture and fixtures, machinery, equipment including motor vehicles and mobile equipment, improvements and betterments – the cost of repair or replacement new without deduction for depreciation including any and all incurred charges; On all real and personal property, including property of others, at the replacement value at the time of the loss without deduction for depreciation.

On improvements and betterments, at the replacement value at time of loss without deduction for depreciation. If property is not repaired or replaced within a reasonable period of time, then the actual cash value. If replaced or repaired by others for the use of the covered party, there shall be no liability hereunder. The CJPRMA agrees to accept and consider the covered party as sole and unconditional owner of all improvements and betterments, any contract or lease the covered party may have made to the contrary notwithstanding.

Permission is granted for the Insured to replace the damaged property with any property at the same site or at another site within the territorial limits of this Program, but recovery is limited to what it would cost to replace on same site. If property damaged or destroyed is not repaired, rebuilt or replaced within three years after the loss or damage, this MOC will not be liable for more than the actual cash value at the time of loss (ascertained with proper

deduction for depreciation) of the property damaged or destroyed. However, limitations imposed by federal, state or municipal building codes shall not result in imposition of actual cash valuation.

(2) Electronic Data Processing or control equipment and production machinery and equipment or any part thereof shall be valued at the cost to repair or replace new except, that with respect to items for which replacement with identical property is impossible, the replacement cost shall be the cost of items similar to the destroyed property and intended to perform the same function but which may include technological advances;

J. All other property: the cost of repair or replacement new without deduction for depreciation including any and all incurred charges.

**13. EXCLUSION OF CERTAIN VACANT STRUCTURES/BUILDINGS:**

(This section was added to the MOC in lieu of Endorsement #6 effective July 1, 2018.)

A. Definition: The term “vacant” is defined as an entire abandonment, deprived of contents, empty, that is, without contents of substantial utility. The term unoccupied means lacking the habitual presence of human beings, and not used by the building owner or tenant to conduct customary operations.

Definition: The “fair market value” is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

Any member that has a structure/building covered by this property program must notify CJPRMA if it is or becomes a vacant or unoccupied structure/building, within 60 days of the structure/building becoming vacant or unoccupied. Once a structure/building has been vacant or unoccupied for a period of 90 days, regardless of whether it is reported as such, the structure will be considered vacant/unoccupied for the purpose of this addendum. All such vacant or unoccupied structures sustaining any loss covered within this MOC will be subject to the following limits of coverage.

B. There will be no rental interruption or loss of use coverage for any such structure/building. There will be no coverage for vandalism, building glass breakage, or water damage. All vacant/unoccupied structures sustaining loss will not be eligible to receive reimbursement at replacement cost. Settlement is strictly fair market value or the stated insurable value, whichever is less. In no event shall the total payment on any claim involving a vacant/unoccupied structure exceed the current reported value.

- C. Failure to report the vacant/unoccupied status of the structure/building to CJPRMA within 60 days from the structure/building becoming vacant or unoccupied will result in a reduction in coverage for reimbursement of demolition costs to no more than 50% of the total cost of demolition.
- D. Once a structure/property has been reported to CJPRMA as vacant/unoccupied, the member will supply CJPRMA with an updated value of the structure recognizing the structure as vacant/unoccupied and submit the value based upon fair market value.
- E. Failure to report the vacant/unoccupied status of the structure/building to CJPRMA within 60 days from the structure/building becoming vacant or unoccupied will result in a reduction in coverage to fair market value minus 50%.

A Member may eliminate the limitations in paragraphs C and E above by subsequently reporting the vacant/unoccupied status to CJPRMA in writing a minimum of 60 days prior to a loss.

As used herein, "vacant" and "unoccupied" does not include buildings or structures under construction, including substantial continuing activities of renovation. If a vacant/unoccupied building becomes no longer vacant or unoccupied, the member shall promptly report the change in status with updated valuation, and the limitations set forth above shall cease to apply to losses occurring after CJPRMA receipt of the Member's written report of change in status and updated valuation.

The limitations under Section E above will not apply to mortgagors that are required by contract to be loss payees.

#### **14. PROPERTY VALUES REPORTED**

- A. Members are required to report the value of structures based upon the CJPRMA approved appraisal report to be entitled to full replacement cost coverage.
- B. A stated value loss is defined as a loss wherein the maximum payable for all losses on the property will not exceed the value as reported by the member as a Total Insurable Value ("TIV") for the parcel involved in the loss.
- C. The Member may choose to utilize a lower value than stated within the CJPRMA appraisal report. In the event the Member chooses to submit a lower TIV than identified in the current appraisal report, any loss to the building/structure/property in the open, will be adjusted based upon a stated value maximum as described above. A stated value loss is defined as a loss that the maximum payable for all losses on the property will not exceed the value as reported by the member to be included within its TIV, for the parcel involved in the loss. The stated value will be identified in a special endorsement for the

member on an annual basis. Members are required to advise CJPRMA whenever they are reporting values which are less than the values identified within the appraisal reports. Members may report values that exceed the appraisal reported values and there will be no impact on their ability to receive full replacement on those losses.

- D. Members adding a location or enhancement to the program in excess of \$5,000,000 must obtain a certified property appraisal within three months of adding the structure/property to the CJPRMA program. Should a member submit a property loss on a structure where the required appraisal report is not submitted as required, the maximum reimbursement will be based upon the stated value.
- E. All land improvements, property in the open, fencing, playgrounds etc. must be reported and included within the member's statement of values. Any attachments, fencing, property in the open not specifically identified in the Memorandum of Coverage will not be covered.

#### **15. TAX INTERRUPTION VALUES:**

- A. Members are entitled to coverage for losses arising within their entities that are defined as Tax Interruption ("TI") losses. The losses must have arisen as a result of a covered peril within this MOC. Members may include a reportable value on an annual basis of the maximum amount of coverage requested arising out of a loss that creates a tax interruption. The submission must identify and name the businesses within their jurisdiction which would be considered for a TI loss. The subject loss would be on a single occurrence basis and would only apply to the program year when the loss occurred. The maximum time limit for any TI loss is for a single, twelve consecutive month period. The TI loss must be identified by verified historical records as produced by the Member.
- B. In the event a member chooses to not submit a value for Tax Interruption, the maximum loss available to the member on an annual basis will be a total of \$500,000 for a single occurrence event providing a tax interruption loss.

#### **16. FIRE BRIGADE CHARGES AND EXTINGUISHING EXPENSES**

If property of CJPRMA is destroyed or damaged by a peril insured against, this Memorandum of Coverage shall cover:

- A. fire brigade charges and other extinguishing expenses for which the CJPRMA may be assessed;
- B. loss of fire extinguishing materials expended

## **17. DEBRIS REMOVAL**

This Memorandum of Coverage covers the following expenses resulting from a peril insured against:

- A. the cost of removal of debris of property covered hereunder;
- B. the cost of removal of debris of property not insured hereunder from the premises of the CJPRMA:
- C. the cost of restoration of land if damage was caused by a covered peril.

## **18. DEMOLITION AND INCREASED COST OF CONSTRUCTION**

In the event of loss or damage under the Memorandum of Coverage that causes the enforcement of any law or ordinance regulating the construction or repair of damaged facilities, this CJPRMA shall be liable for:

- A. the cost of demolishing the undamaged facility including the cost of clearing the site;
- B. the proportion that the value of the undamaged part of the facility bore to the value of the entire facility prior to loss;
- C. increased cost of repair or reconstruction of the damaged and undamaged facility on the same or another site and limited to the minimum requirements of such law or ordinance regulating the repair or reconstruction of the damaged property on the same site. However, the CJPRMA shall not be liable for any increased cost of construction loss unless the damaged facility is actually rebuilt or replaced;
- D. any increase in the business interruption, extra expense, and rental value loss arising out of the additional time required to comply with said law or ordinance.

The Program shall not be liable for any cost of demolition or increased cost of replacement, repair, debris removal or loss of use necessitated by the enforcement of any law or ordinance regulating any form of contamination or pollution.

## **19. EXPEDITING EXPENSE**

This Memorandum of Coverage covers the reasonable extra cost of temporary repair and of expediting the repair of damaged property insured hereunder, including overtime and express freight or other rapid means of transportation.

## **20. CONTRIBUTING INSURANCE**

Contributing insurance is insurance written upon the same plan, terms, conditions, and provisions as those contained in this Memorandum of Coverage. This insurance shall contribute in accordance with the conditions of this Memorandum of Coverage only with other contributing insurance as defined.

## **21. EXCESS INSURANCE**

Excess insurance is insurance over the limit of liability set forth in this Memorandum of Coverage. The existence of such excess insurance shall not prejudice the coverage provided under this Memorandum of Coverage nor will it reduce any liability hereunder.

## **22. UNDERLYING INSURANCE**

- A. Underlying insurance is insurance on all or any part of the deductible and against all or any of the perils covered by this Memorandum of Coverage including declarations of value to the carrier. The existence of such underlying insurance shall not prejudice or affect any recovery otherwise payable under this Memorandum of Coverage.
- B. If the limits of such underlying insurance exceed the deductible amount which would apply in the event of loss under this Memorandum of Coverage, then that portion which exceeds such a deductible amount shall be considered "other insurance."

## **23. OTHER INSURANCE**

Except for insurance described by the contributing insurance clause, by the excess insurance clause, or by the underlying insurance clause, this Memorandum of Coverage shall not cover to the extent of any other insurance, whether prior or subsequent hereto in date, and whether directly or indirectly covering the same property against the same perils. The CJPRMA shall be liable for loss or damage only to the extent of that amount in excess of the amount recoverable from such other insurance.

## **24. SUBROGATION**

- A. Any release from liability entered into by the CJPRMA Member prior to loss hereunder shall not affect this Memorandum of Coverage or the right of the CJPRMA Member to recover hereunder. The Member shall take no action after loss that would prejudice the right of CJPRMA and/or its Program or excess insurers to seek subrogation against third parties for losses paid hereunder. The right of subrogation against CJPRMA Member, or subsidiaries or affiliated

corporations or companies, or any other corporations or companies associated with the CJPRMA Member through ownership or management is waived.

- B. In the event of any payment under this Memorandum of Coverage, the CJPRMA shall be subrogated to the extent of such payment to all the CJPRMA Member's rights of recovery therefore. The Member shall execute all papers required and shall do anything that may be necessary at the expense of the CJPRMA to secure such right. The Member will act in concert with all other interests concerned, i.e., the CJPRMA and any other parties participating in the payment of any loss as primary or excess insurers or reinsurers, in the exercise of such rights of recovery. If any amount is recovered as a result of such proceedings, the net amount recovered after deducting the costs of recovery shall be divided between the interests concerned in the proportion of their respective interests. If there should be no recovery, the expense of proceedings shall be borne proportionately by the interests instituting the proceedings.

## **25. SALVAGE AND RECOVERIES**

All salvages, recoveries, and payments, excluding proceeds from subrogation and underlying insurance recovered or received subsequent to a loss settlement under this Memorandum of Coverage, shall be applied as if recovered or received prior to the said settlement and all necessary adjustments shall be made to the parties involved.

## **26. BRAND OR TRADEMARK**

In case of damage by a peril insured against to property bearing a brand or trademark or which in any way carries or implies the guarantee or the responsibility of the manufacturer or the CJPRMA, the salvage value of such damaged property shall be determined after removal at the CJPRMA's expense in the customary manner of all such brands or trademarks or other identifying characteristics. The CJPRMA shall have full right to the possession of all goods involved in any loss under this Memorandum of Coverage and shall retain control of all damaged goods. The CJPRMA, exercising a reasonable discretion, shall be the sole judge as to whether the goods involved in any loss under this Memorandum of Coverage are fit for consumption. No goods so deemed by the CJPRMA to be unfit for consumption shall be sold or otherwise disposed of except by or with the CJPRMA's consent, but the CJPRMA shall allow any salvage obtained by the CJPRMA on any sale or other disposition of such goods.

## **27. MACHINERY**

In case of loss or damage by a peril insured against to any part of a machine or unit consisting of two or more parts when complete for use, the liability of the CJPRMA shall be limited to the value of the part of parts lost or damaged or, at the CJPRMA's

option, to the cost and expense of replacing or duplicating the lost or damaged part or parts or of repairing the machine or unit.

## **28. LIBERALIZATION CLAUSE**

If during the period that insurance is in force under this Memorandum of Coverage or within 45 days prior to the inception date thereof, on behalf of the CJPRMA there be adopted, or filed with and approved or accepted by the insurance supervisory authorities, all in conformity with law, any changes in the form attached to this Memorandum of Coverage by which this form of insurance could be extended or broadened without increase premium charge by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the CJPRMA hereunder as though such endorsement or substitution of form had been made.

## **29. ERRORS OR OMISSIONS**

Any unintentional error or omission made by the CJPRMA shall not void or impair the insurance hereunder provided the CJPRMA reports such error or omission as soon as reasonably possible after discovery. Errors and omissions does not extend to failure to report newly acquired locations within 90 days, or to fail to schedule unnamed locations.

## **30. NOTICE OF LOSS**

The Member will endeavor to report all losses that may be subject to loss recovery within this program as soon as the loss is determined. In no event will any loss be accepted that occurred more than 90 days prior to the submission of a notice of loss. Any loss occurring in the months of May or June must be reported by August 1, of the following program year or will not be subject to coverage. A reporting of loss will be deemed to have occurred once the CJPRMA loss notification form has been submitted to CJPRMA/Alliant.

All losses shall be reported to the CJPRMA administration office, CJPRMA shall report such loss or damage with full particulars to Alliant Property Insurance Program, Alliant Insurance Services, Inc. 101 Pine St, 11th Floor, San Francisco, California 94111 hereby authorized to appoint McLarens Young International, One Sansome Street, Suite 950, San Francisco, California 94104-4429 to assess the loss on behalf of CJPRMA.

## **31. PROOF OF LOSS**

It shall be necessary for the CJPRMA to render a signed and sworn proof of loss stating: the place, time, and cause of the loss, damage, or expense; the interest of the CJPRMA and of all others; the value of the property involved in the loss; and the amount of loss, damage, or expense.



### **32. APPRAISAL**

If the CJPRMA fails to agree on the amount of loss, each interested member, upon the written demand either of the CJPRMA or the interested member of the CJPRMA made within 60 days after receipt of proof of loss, shall select a competent and disinterested appraiser. The appraisers shall then select a competent and disinterested umpire. If they should fail for 15 days to agree upon such umpire, then upon the request of the CJPRMA or of this CJPRMA, such umpire shall be selected by a judge of a court of record in the county and state in which such appraisal is pending. Then, at a reasonable time and place, the appraisers shall appraise the loss, stating separately the value at the time of loss and the amount of loss. If the appraisers fail to agree, they shall submit their differences to the umpire. An award in writing by any two shall determine the amount of loss. The CJPRMA and the interested member shall each pay its chosen appraiser and shall bear equally the other expenses of the appraisal and of the umpire.

### **33. CONSEQUENTIAL LOSS**

This Memorandum of Coverage insures against consequential loss to the property insured caused by change of temperature or humidity or by interruption of power, heat, air conditioning, or refrigeration resulting from a peril insured against with a sublimit of coverage in the amount of \$25,000,000. CJPRMA and its members must attempt to limit the loss to the best of their ability, for this exposure to be covered.

### **34. ASSISTANCE AND COOPERATION OF THE CJPRMA**

The member entities shall cooperate with the CJPRMA and, upon the CJPRMA's request and expense, shall attend hearings and trials and shall assist in effecting settlements, in securing and giving evidence, in obtaining the attendance of witnesses, and in conducting suits.

### **35. SUE AND LABOR**

In case of actual or imminent loss or damage by a peril insured against, it shall, without prejudice to this insurance, be lawful and necessary for the CJPRMA, their factors, servants, or assigns to sue, labor, and travel for, in, and about the defense, the safeguard, and the recovery of the property or any part of the property insured hereunder; nor, in the event of loss or damage, shall the acts of the CJPRMA in recovering, saving, and preserving the insured property be considered a waiver or an acceptance of abandonment. The CJPRMA shall contribute to the expenses so incurred according to the rate and quantity of the sum herein insured.

### **36. PAYMENT OF LOSS**

All adjusted claims shall be due and payable no later than 30 days after presentation and acceptance of proofs of loss by the CJPRMA or its appointed representative.

### **37. PARTIAL PAYMENT OF LOSS**

In the event of a loss covered by this Memorandum of Coverage, it is understood and agreed that the CJPRMA may allow a partial payment(s) of claim subject to the Memorandum of Coverage conditions.

### **38. LOSS ADJUSTMENT EXPENSE**

This Memorandum of Coverage is extended to include expenses incurred by the CJPRMA or by the CJPRMA's representatives for preparing and certifying details of a claim resulting from a loss which would be payable under this Memorandum of Coverage. However, the CJPRMA shall not be liable under this clause for expenses incurred by the CJPRMA in utilizing the services of a public adjuster attorneys, and/or agents/brokers.

### **39. BUY-BACK OPTION**

If the CJPRMA recovers property for which the CJPRMA has already paid the member entities, the member entity has the right to buy the property back from the CJPRMA. If the property is not damaged, the member entity will pay the same amount the CJPRMA paid the member entity, plus an amount for loss adjustment, recovery expenses and interest.

### **40. REINSTATEMENT**

No loss hereunder shall reduce the amount of this Memorandum of Coverage.

### **41. SUIT AGAINST THE CJPRMA**

No suit or action on this Memorandum of Coverage for the recovery of any claim shall be sustainable in any court of law or equity unless the CJPRMA shall have fully complied with all the requirements of this Memorandum of Coverage. The CJPRMA agrees that any action or proceeding against it for recovery of any loss under this Memorandum of Coverage shall not be barred if commenced within the time prescribed therefore in the statutes of the state of California.

### **42. CERTIFICATES OF INSURANCE**

All parties to whom a certificate of insurance has been issued by the CJPRMA or the broker, are automatically added to this Memorandum of Coverage upon issuance of said certificates, either as additional insureds or as loss payees, or both, in accordance with the terms and conditions of said certificates.

#### **43. CANCELLATION**

- A. This Memorandum of Coverage may be canceled at any time at the request of the CJPRMA by mailing to the CJPRMA at:

3201 Doolan Road, Suite 285  
Livermore, CA 94551

and to the additional insured/loss payees indicated on the certificates of insurance issued during the term of this Memorandum of Coverage and to Alliant Insurance Services, Inc. | 100 Pine Street., 11th Floor | San Francisco, California 94111, written notice stating when, not less than 90 days thereafter, such cancellation shall be effective, except ten (10) days for non-payment.

- B. The mailing of notice as aforesaid shall be sufficient proof of notice and the effective date and hour of cancellation stated in the notice shall become the end of the Memorandum of Coverage period. Delivery of such written notice by the CJPRMA shall be equivalent to mailing.
- C. Cancellation shall not affect coverage on any shipment in transit on the date of cancellation. Coverage will continue in full force until such property is delivered and accepted.

#### **44. TITLES OF PARAGRAPHS**

The titles of the paragraphs of this form and of endorsements and supplemental contracts, if any, now or hereafter attached hereto are inserted solely for convenience of reference and shall not be deemed in any way to limit or affect the provisions to which they relate.

#### **45. JOINT LOSS AGREEMENT**

With respect to insurance provided by this Memorandum of Coverage, it is agreed that:

- (1) If at the time of loss, there is in existence of a Memorandum of Coverage, insurance policy(ies) or Reinsurance Certificate issued by either this CJPRMA, a Property or Boiler and Machinery Insurance company which may cover the same property or cover the location at which the property subject to loss is situated; and
- (2) If there is a disagreement between the parties under this Memorandum of Coverage and such other contract either as to:

- (1) whether such damage or destruction was caused by a peril insured against by this Memorandum of Coverage or be an accident insured against by such Property or Boiler and Machinery Insurance policy; or
- (2) the extent of participation of this Memorandum of Coverage and of such Property or Boiler and Machinery Insurance policy in a loss which is insured against, partially or wholly, by any one or all of said policies;

this Memorandum of Coverage shall, upon written request of the CJPRMA, pay to the CJPRMA one-half of the amount of the loss which is in disagreement, but in no event more than the CJPRMA would have paid if there had been no boiler and machinery insurance policy in effect, subject to the following conditions:

- (3) the amount of the loss which is in disagreement, after making provisions for any undisputed claims payable under the said policies and after the amount of the loss is agreed upon by the CJPRMA and the companies is limited to the minimum amount remaining payable under either the boiler and machinery or this Memorandum of Coverage.

#### **46. MEMORANDUM OF COVERAGE**

- A. This memorandum of coverage shall be the primary coverage document to the Property Program. All language within this program will control the ultimate adjustment of any claim and this MOC will be the controlling document. No language that provides additional coverage within the following form insurance policies will be available unless specifically stated within this document.
- B. Except for Appraisal valuation issues determined under Section 32, above, the General Manager shall make the final determination of coverage for any loss or any other coverage dispute under this Memorandum, including but not limited to issues relating to reporting of values, timely reporting of losses, and application or interpretation of the language of this Memorandum, based upon the submissions of the member and the investigation performed by McLarens Young on the facts of the loss as submitted. . A decision by the General Manager to deny coverage can be appealed to the property program participants serving on the Board of Directors. Notice of such appeal shall be submitted in writing within thirty (30) calendar days of the date of the General Manager's written notice of decision.
- C. The appeal shall be considered by the property program participants on the Board of Directors at the next regular or special meeting following receipt of the written appeal; if the appeal is received too late for inclusion in the agenda packet, it can be postponed to the next following Board meeting. The General Manger and the covered party will have the right to submit written materials and present oral argument to the Board, subject to reasonable time constraints.

- D. Within sixty (60) days following any denial of coverage by the Board, the covered party may request, in writing, that the CJPRMA initiate a declaratory relief action in Superior Court for a determination of the coverage matter. The declaratory relief action shall be initiated in the County of the CJPRMA's home office, unless the CJPRMA and covered party agree on a different venue.
  
- E. Under no circumstances shall the CJPRMA be liable for consequential damages, "bad faith" damages, or any sums beyond the amounts due under Section 7 ("COVERAGE"), plus interest at the same rate as the CJPRMA earned on investments for the time period involved.

**THIS ENDORSEMENT (1) CHANGES THE MEMORANDUM OF COVERAGE.  
PLEASE READ IT CAREFULLY.**

**WAR EXCLUSION**

All loss, cost or expense directly or indirectly arising out of, resulting as a consequence of or related to war. "War," as utilized herein, shall mean war whether or not declared, civil war, martial law, insurrection, revolution, invasion, bombardment or any use of military force, usurped power or confiscation, nationalization or damage of property by any government, military or other authority.

This exclusion shall apply whether or not there is another cause of loss which may have contributed concurrently or in any sequence to a loss.

**THIS ENDORSEMENT (2) CHANGES THE MEMORANDUM OF COVERAGE. PLEASE READ IT CAREFULLY.**

Endorsement #2 has been replaced by Endorsement #7 effective July 1, 2018.

**THIS ENDORSEMENT (3) CHANGES THE MEMORANDUM OF COVERAGE.  
PLEASE READ IT CAREFULLY.**

## **MOLD EXCLUSION**

The following is added to the Exclusions section of this Memorandum of Coverage:

### **Mold, Fungus Exclusion:**

In consideration of the premium charged, it is hereby understood and agreed that this MOC is amended as follows.

The CJPRMA shall not be liable for any loss or damage caused by, arising out of, contributed to, or resulting from fungus, mold(s), mildew or yeast; or any spores or toxins created or produced by or emanating from such fungus, mold(s), mildew or yeast;

- (a) fungus includes, but is not limited to, any of the plants or organisms belonging to the major group fungi, lacking chlorophyll, and including mold(s), rusts, mildews, smuts and mushrooms;
- (b) mold(s) includes, but is not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and fungi that produce mold(s);
- (c) spores means any dormant or reproductive body produced by or arising or emanating out of any fungus, mold(s), mildew, plants, organisms or microorganisms;

regardless of any other cause or event that contributes concurrently or in any sequence to such loss.

All other terms, conditions, definitions, exclusions, limitations and provisions of the MOC remain the same.



**THIS ENDORSEMENT (4) CHANGES THE MEMORANDUM OF COVERAGE.  
PLEASE READ IT CAREFULLY.**

Endorsement #4 has been replaced by Endorsement #9 effective July 1, 2018.

**THIS ENDORSEMENT (5) CHANGES THE MEMORANDUM OF COVERAGE.  
PLEASE READ IT CAREFULLY.**

**EXCLUSION OF CERTAIN COMPUTER-RELATED LOSSES**

- A. The CJPRMA will not pay for loss (“loss”) or damage caused directly or indirectly by the following. Such loss (“loss”) or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss (“loss”) or damage.
1. The failure, malfunction or inadequacy of:
    - a. Any of the following, whether belonging to any CJPRMA member or to others:
      - (1) Computer hardware, including microprocessors;
      - (2) Computer application software;
      - (3) Computer operating systems and related software;
      - (4) Computer networks;
      - (5) Microprocessors (computer chips) not part of any computer system; or
      - (6) Any other computerized or electronic equipment or components; or
    - b. Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph A.1.a. of this endorsement; due to the inability to correctly recognize, process, distinguish, interpret or accept one or more dates or times. An example is the inability of computer software to recognize the year 2000.
  2. Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph A.1. of this endorsement.
- B. If an excluded Cause of Loss as described in Paragraph A. of this endorsement results in a Covered Cause of Loss under the Boiler and Machinery Coverage Part or the Memorandum of Coverage; or we will pay only for the loss (“loss”) or damage caused by such “Specified Cause of Loss,” elevator collision, or Covered Cause of Loss.

We will not pay for repair, replacement or modification of any items in Paragraphs A.1.a. and A.1.b. of this endorsement to correct any deficiencies or change any features.

**THIS ENDORSEMENT (6) CHANGES THE MEMORANDUM OF COVERAGE.  
PLEASE READ IT CAREFULLY.**

**EXCLUSION OF CERTAIN VACANT STRUCTURES/BUILDINGS**

This addendum to the CJPRMA Property Memorandum of Coverage became effective January 1, 2015. This endorsement was incorporated into this Memorandum of Coverage effective July 1, 2018.

**THIS ENDORSEMENT (7) CHANGES THE MEMORANDUM OF COVERAGE.  
PLEASE READ IT CAREFULLY.**

**DATA/CYBER**

Information Security & Privacy Insurance with Electronic Media Liability Coverage  
Information Security and Privacy Liability pays on behalf of the member damages and claims expenses excess of the retention which the member shall become legally obligated to pay because of any claim, including a claim for violation of a privacy law first made against the member and reported to underwriters during the Program period for:

- Theft, loss or unauthorized disclosure of personally identifiable non-public information or third party corporate information that is in the care, custody or control of the member, or an independent contractor that is holding, processing or transferring such information on behalf of the member
- Acts or incidents that directly result from the failure of computer security to prevent a security breach including:
  - Alteration, corruption, destruction, deletion, or damage to a data asset stored on computer systems
  - Failure to prevent transmission of malicious code from computer systems to third party computer systems
  - Participation in a denial of service attack directed against a third party computer system
- The failure to timely disclose any of the above in violation of any breach notice law
- The failure to comply with a privacy policy that (1) prohibits or restricts the disclosure, sharing or selling of personally identifiable non-public information, (2) requires Insured Organization to provide access to or correct incomplete or inaccurate personally identifiable non-public information or (3) mandates procedures and requirements to prevent the loss of personally identifiable information
- The failure to administer an identity theft prevention program
- Privacy Notification Costs, in excess of the Retention and incurred by the member with Underwriters' prior consent resulting from the Insured Organization's legal obligation to comply with a breach notice law because of an incident that first takes place on or after the retroactive date and before the end of the Program period and is discovered by the member and reported to Underwriters during the Program period. Privacy Notification Costs means costs incurred within one year of the reporting of the incident or suspected incident to the Underwriters:
  - To hire computer security experts
  - Notification in compliance with a Breach Notice Law
  - Public relations mitigation up to \$100,000
  - Credit monitoring for the purpose of mitigating potential damages

- Privacy notification is expanded to include notification at the underwriters' discretion to individuals affected by an incident in which their Personally Identifiable Non-Public Information has been subject to theft, loss or Unauthorized Disclosure

Regulatory Defense and Penalties pays on behalf of the member claims expenses and penalties which the member shall become legally obligated to pay because of any claim in the form of a regulatory proceeding resulting from a violation of a privacy law and caused by an incident described under certain sections of the information security and privacy liability section of the Program that first takes place on or after the Retroactive Date and before the end of the Program period.

Website Media Content Liability (occurrence based) pays on behalf of the insured damages and claims expenses, in excess of the Deductible, resulting from any claim made against the member for one or more of the following acts committed in the course of covered media activities occurring during the Program period:

- Defamation, libel, slander, trade libel, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization
- Privacy violation
- Invasion or interference with publicity
- Plagiarism, piracy, misappropriation
- Infringement of copyright
- Infringement of domain name, trademark, trade name, trade dress, logo, title, metatag, or slogan, service mark, or service name; or
- Improper deep-linking or framing within electronic content

Cyber Extortion indemnifies the member for costs incurred as a direct result of an extortion threat first made against the Insured Organization by a person other than employees, directors, officers, principals, trustees, governors, managers, members, etc.

First Party Data Protection indemnifies the member for a data protection loss excess of retention incurred as a direct result of (1) alteration, corruption, destruction, deletion or damage to a data asset or (2) inability to access a data asset, that first takes place during the Program period and is directly caused by failure of Computer Security to prevent a Security Breach, provided that such Security Breach must take place on or after the Retroactive Date and before the end of the Program period.

First Party Network Business Interruption indemnifies the member for business interruption loss as a direct result of the actual and necessary interruption or suspension of computer systems that first takes place during the Program period and is directly caused by a failure of computer security to prevent a security breach.

It is noted and agreed that this Program is hereby amended as follows:

The Insurer will not pay for Damage or Consequential loss directly or indirectly caused by, consisting of, or arising from:

1. Any functioning or malfunctioning of the internet or similar facility, or of any intranet or private network or similar facility;
2. Any corruption, destruction, distortion, erasure or other loss or damage to data, software, or any kind of programming or instruction set;
3. Loss of use or functionality whether partial or entire of data, coding, program, software, any computer or computer system or other device dependent upon any microchip or embedded logic, and any ensuing liability or failure of the Insured to conduct business.

This Endorsement shall not exclude Subsequent Damage or Consequential loss, not otherwise excluded, which itself results from a Defined Peril. Defined Peril shall mean: Fire, Lightning, Earthquake, Explosion, Falling Aircraft, Flood, Smoke, Vehicle Impact, Windstorm or Tempest.

Such Damage or Consequential loss described in 1, 2, or 3 above is excluded regardless of any other cause that contributed concurrently or in any other sequence.

**THIS ENDORSEMENT (8) CHANGES THE MEMORANDUM OF COVERAGE. PLEASE READ IT CAREFULLY. THIS ENDORSEMENT SUPERSEDES ANY CYBER EXCLUSIONS IN THE PROPERTY MEMORANDUM OF COVERAGE EFFECTIVE JULY 01, 2017**

## **Cyber Liability**

Coverage is provided on claims made basis

**Information Security & Privacy Insurance with Electronic Media Liability Coverage Information Security and Privacy Liability** pays on behalf of the Insured/Member damages and claims expenses excess of the retention which the Insured/Member shall become legally obligated to pay because of any claim, including a claim for violation of a privacy law first made against the Insured/Member and reported to underwriters during the Program period for

- theft, loss or unauthorized disclosure of personally identifiable non-public information or third party corporate information that is in the care, custody or control of the Insured/Member, or an independent contractor that is holding, processing or transferring such information on behalf of the Insured/Member.
- Acts or incidents that directly result from the failure of computer security to prevent a security breach including
  - Alteration, corruption, destruction, deletion, or damage to a data asset stored on computer systems
  - Failure to prevent transmission of malicious code from computer systems to third party computer systems
  - Participation in a denial of service attack directed against a third party computer system
- The failure to timely disclose any of the above in violation of any breach notice law
- The failure to comply with a privacy policy involving the disclosure, sharing or selling of personally identifiable non-public information
- The failure to administer an identity theft prevention program

**Privacy Notification Costs** pay the Insured/Member for reasonable and necessary costs to comply with a breach notice law because of an incident that first takes place on or after the retroactive date and before the end of the Program period. Privacy Notification Costs means costs incurred within one year of the reporting of the incident or suspected incident to the Underwriters:

- To hire security experts;
- Notification provisions,
- Public relations mitigation up to \$50,000 subject to Nil coinsurance
- Credit monitoring for the purpose of mitigating potential damages and are subject to Nil coinsurance
  - Credit file monitoring,
  - Mailing and third party administrative costs

To provide notification to:

Individuals who are required to be notified by the **Insured Organization** under the applicable **Breach Notice Law**; and

In the Underwriters' discretion, to individuals affected by an incident in which their **Personally Identifiable Non-Public Information** has been subject to theft, loss, or Unauthorized Disclosure in a manner which compromises the security or privacy of such individual by posing a significant risk of financial, reputational or other harm to the individual.

**Regulatory Defense and Penalties** pays on behalf of the Insured/Member claims expenses and penalties which the Insured/Member shall become legally obligated to pay because of any claim in the form of a regulatory proceeding resulting from a violation of a privacy law and caused by an incident described under certain sections of the information security and privacy liability section of the MOC.

**Website Media Content Liability** (occurrence based) pays on behalf of the insured damages and claims expenses resulting from any claim made against the Insured/Member for one or more of the following acts committed in the course of covered media activities:

- Defamation, libel, slander, trade libel
- Privacy violation
- Invasion or interference with publicity
- Plagiarism, piracy, misappropriation of ideas under implied contract
- Infringement of copyright
- Infringement of domain name, trademark
- Improper deep-linking or framing within electronic content

**Cyber Extortion** indemnifies the Insured/Member for costs incurred as a result of an extortion threat by a person other than employees, directors, officers, principals, trustees, governors, managers, members, etc.

**First Party Data Protection** indemnifies the Insured/Member for data protection loss as a result of alteration, corruption, destruction, deletion, damage or inability to access data assets.

**First Party Network Business Interruption** indemnifies the Insured/Member for business interruption loss as a direct result of the actual and necessary interruption or suspension of computer systems and is directly caused by a failure of computer security to prevent a security breach.

**Third Party Liability:**



- \$25,000,000 **Annual Program and Program Aggregate Limit of Liability** (subject to Program exclusions) for all Insured's/Members combined (Aggregate for all coverage's combined, including Claims Expenses), subject to the following sub-limits as noted.
- \$2,000,000 **Annual Aggregate Limit of Liability** for each Insured/Member for **Information Security & Privacy Liability. Each Member of a JPA will have a \$2,000,000 Limit Each** (Aggregate for all coverages combined, including Claim Expenses) but sublimited to:
- \$500,000 **Annual Program Aggregate Limit of Liability** for each Insured/Member **Privacy Notification Costs coverage**. Limit is \$1,000,000 if Beazley vendor services are used.
- \$2,000,000 **Annual Program Aggregate Limit of Liability** for each Insured/Member for all **Claims Expenses and Penalties for Regulatory Defense and Penalties**
- \$2,000,000 **Annual Program Aggregate Limit of Liability** for each Insured/Member for all Damages and Claims Expenses for **Website Media Content Liability** (Occurrence Based)

***First Party Computer Security:***

- \$2,000,000 **Program Aggregate Sublimit of Liability** for each Insured/Member for **Cyber Extortion Loss**
- \$2,000,000 **Program Aggregate Sublimit of Liability** for each Insured/Member for **Data Protection Loss and Business Interruption Loss**
- \$50,000 Fraudulent Instruction Coverage
- \$50,000 Telecommunications Fraud Coverage
- \$50,000 Consequential Reputational Loss
- \$100,000 Forensic Expenses
- \$500,000 Dependent Business Interruption

**First Party Business Interruption Sub-Limits of Liability** for each Insured/Member:

- \$50,000 1) Hourly Sublimit
- \$50,000 2) Forensic Expense Sublimit
- \$150,000 3) Dependent Business Interruption Sublimit.

**THIS ENDORSEMENT (9) CHANGES THE MEMORANDUM OF COVERAGE. PLEASE READ IT CAREFULLY. THIS ENDORSEMENT SUPERSEDES ANY POLLUTION EXCLUSIONS IN THE PROPERTY MEMORANDUM OF COVERAGE EFFECTIVE JULY 01, 2017**

**Pollution Liability**

*Coverage is provided on a Claims Made Basis*

**Covered Locations:**

1. Any location owned, operated, managed, leased or maintained by the insured or insured member
2. Any location that meets the prerequisites to coverage identified in the Automatic Acquisition and Due Diligence section of this endorsement.
3. Any other location specifically scheduled as a covered location by endorsement
4. Any subsurface potable water, wastewater or storm water pipes to or from a covered location, provided that such pipes are located within a one thousand (1,000) foot radius of such location

**Coverage:**

***Pollution Conditions or Indoor Environmental Conditions*** – Coverage for claims and first-party claims arising out of a pollution condition on, at, under or migrating from a covered location, or an indoor environmental condition at a covered location, provided the claim is first made, or the member first discovers such pollution condition or indoor environmental condition during the Program period. Coverage only applies to pollution conditions or indoor environmental conditions that first commence, in their entirety, on or after the retroactive date, and prior to the end of the Program period.

***Covered Operations*** - Coverage for claims and first-party claims arising out of a pollution condition or indoor environmental condition resulting from covered operations, provided the claim is first made, or the Insured first discovers such pollution condition or indoor environmental condition, during the Program period. Any such claim or first-party claim must be reported to the Insurer, in writing, during the Program period. Coverage only applies to pollution conditions or indoor environmental conditions that first commence, in their entirety, on or after the retroactive date and prior to the end of the Program period.

***Transportation Coverage*** - Coverage for claims and first-party claims arising out of a pollution condition resulting from transportation, provided the claim is first made, or the Insured first discovers such pollution condition, during the Program period. Any such claim or first-party claim must be reported to the Insurer, in writing, during the Program period. Coverage only applies to pollution conditions that first commence, in their entirety, on or after the retroactive date and prior to the end of the Program period.

***Business Interruption/Extra Expense*** – Included

***Non-Owned Disposal Site Coverage*** - Coverage for claims arising out of a pollution condition on, at, under or migrating from a non-owned disposal site, provided the claim is first made during the Program period. Any such claim must be reported to the Insurer, in writing, during the Program period. Coverage only applies to pollution conditions that are attributable to the Insured's waste generated at a covered location and received at the non-owned disposal site, in its entirety, on or after the retroactive date and prior to the end of the Program period.

***Catastrophe Management Coverage*** - Coverage for reasonable and necessary expenses approved by the Insurer, in writing, except for those expenses incurred during the same seven (7) day period associated with emergency response costs, which have been incurred by the Insured for the following:

- Responsive consulting services rendered by a catastrophe management firm;
- Printing, advertising, mailing of materials of public relations materials;
- Travel by directors, officers, employees or agents of the Insured or the catastrophe management firm, incurred at the direction of the catastrophe management firm;
- To secure the scene of a pollution condition or indoor environmental condition;
- Sums advanced to third-parties directly harmed by the pollution condition or indoor environmental condition for their medical costs, funeral costs, psychological counseling, travel expenses costs, temporary living costs or other necessary response costs.

Catastrophe management costs do not include any legal defense costs.

***Emergency Response Costs*** – Coverage for first-party remediation costs incurred within seven (7) days following the discovery of a pollution condition or indoor environmental condition in order to abate or respond to an imminent and substantial threat to human health or the environment arising out of:

- A pollution condition or indoor environmental condition on, at, under or migrating from a covered location; or
- A pollution condition resulting from transportation, provided such emergency response costs are reported to the Insurer within fourteen (14) days of when the Insured first became aware of such pollution condition or indoor environmental condition

***Fungi and legionella are included in the definition of Indoor Environmental Condition***

***Products Pollution Coverage*** – Coverage for claims arising out of product pollution, provided that the claim is first made during the Program period. Any such claim must be reported to the Insurer, in writing, during the Program period. Coverage only applies to product pollution that first commences, in its entirety, on or after the retroactive date.

**Retroactive Dates:**

Premises Pollution:	July 1, 2013
Transportation:	July 1, 2013
Non-Owned Disposal Sites:	July 1, 2013
Covered Operations:	July 1, 2011
Products Liability:	July 1, 2001 (water)
Products Liability:	July 1, 2006 (bio-solids)
City of Livermore (sewage backup only):	January 8, 2013
City of Livermore properties:	January 8, 2013

**Limits:**

\$5,000,000	Per Pollution Condition or Indoor Environmental Condition
\$5,000,000	Aggregate limit for all Pollution Condition or Indoor Environmental Conditions
\$750,000	Catastrophe Management Sublimit
\$2,000,000	Product Condition Sublimit
\$2,000,000	Product Condition Aggregate
\$2,000,000	Covered Operations Sublimit
\$2,000,000	Covered Operations Aggregate Sublimit
\$1,000,000	Per Bacteria/Virus Condition

**Deductibles:**

\$75,000	Per Pollution Condition or Indoor Environmental Condition SIR
\$375,000	Aggregate SIR for all Pollution Conditions
\$37,500	Maintenance SIR per Pollution Condition
3 Days	Business Interruption Deductible

**Exclusions:**

**Products Liability** – does not apply to coverage for product pollution pursuant to the products pollution coverage in this Program.

**Asbestos** – does not apply to:

- claims for bodily injury or property damage, or any associated legal defense expenses arising out of asbestos or asbestos-containing materials;
- first-party claims arising out of asbestos or asbestos-containing materials discovered in soil or groundwater; and
- first-party remediation costs arising out of asbestos or asbestos-containing material, provided such remediation costs are the result of a pollution condition that first commenced during the Program period and does not arise out of or relate to any pollution conditions which existed prior to Program inception, is

unintended and unexpected from the standpoint of the insured, is sudden, direct and immediate, is first discovered by the Insured within seven (7) days of commencement, and is reported to the Insurer as soon as practicable, but in no event less than twenty-one (21) days following the discovery of such pollution condition by the Insured.

***Contractual Liability*** – does not apply to environmental indemnity obligations

***Divested Property*** – does not apply to any pollution conditions or indoor environmental conditions that first commenced, in whole or in part, prior to the effective date that any such covered location was divested, as identified in this Program.

***Employers' Liability***

***Criminal Fines and Criminal Penalties***

***First-Party Property Damage*** – does not apply to first-party remediation costs, emergency response costs, business interruption loss and catastrophe management costs.

***Fraud or Misrepresentation***

***Insured's Internal Expenses*** – does not apply to emergency response costs, along with any associated catastrophe management costs incurred during that same seven (7) day period or any other costs, charges or expenses incurred with the prior written approval of the Insurer.

***Insured vs. Insured***

***Intentional Non-Compliance***

***Lead Based Paint*** - does not apply to:

- claims for bodily injury, property damage or any associated legal defense expenses arising out of lead-based paint;
- first-party remediation costs arising out of lead-based paint discovered in soil or groundwater;
- first-party remediation costs arising out of lead-based paint,

provided such remediation costs are the result of a pollution condition that first commenced during the Program period and does not arise out of or relate to any pollution conditions which existed prior to Program inception, is unintended and unexpected from the standpoint of the insured, is sudden, direct and immediate, is first discovered by the Insured within seven (7) days of commencement, and is reported to the Insurer as soon as practicable, but in no event less than twenty-one (21) days following the discovery of such pollution condition by the Insured.

***Landfills, Recycling Facilities, Ports, Airports, or Oil and/or Gas Producing or Refining Facilities***

***Material Change in Risk***

***Known Conditions***

***Professional Liability***

***Regulatory Compliance***

***Vehicle Damage***

***War or Terrorism***

***Work Product***

***Underground Storage Tank*** - does not apply to any underground storage tank that:

- Is scheduled in the MOC; or
- Has been removed or closed-in-place prior to Program inception and such removal or closure was conducted in accordance with environmental law.

***Workers' Compensation***

***Sewage Backup***

***Lead Contaminated Water***

**THIS ENDORSEMENT (10) CHANGES THE MEMORANDUM OF COVERAGE.  
PLEASE READ IT CAREFULLY.**

**DEDUCTIBLE BUY-DOWN**

Members adopted a buy-down option for the 2018-2019 program year. Members will contribute their pro-rata share of \$500,000 into a deductible buy-down fund. All members contributing to the buy-down provision will be entitled to receive contributions from the fund based upon the following schedule:

- A. A member will receive a \$50,000 recovery for their first loss of the program year that is approved by the claims process and exceeds the \$100,000 deductible limit within the MOC.
- B. A member will receive a \$25,000 recovery for their second loss of the program year that is approved by the claims process and exceeds the \$100,000 deductible within the MOC.
- C. Any member sustaining a third loss in the program year will be responsible for funding the \$100,000 retention for any and all property claims once the buy down provision has been provided for losses one and two of the program year.
- D. All remaining funds in the buy-down program at the conclusion of the program year may be applied to a buy-down option for the following program year or may be returned to the program participants based upon a vote of the program participants at the May 2019 Board of Directors Meeting. Based upon the determination by the program participants, each member will be eligible to receive their pro-rata share of the remaining funds based upon their percentage of participation in the program.