

**Torres Rojas, Genara**

FOI #14135

**From:** joliviero@ksww.com  
**Sent:** Friday, July 12, 2013 11:51 AM  
**To:** Duffy, Daniel  
**Cc:** Torres Rojas, Genara; Van Duyne, Sheree; Qureshi, Ann  
**Subject:** Freedom of Information Online Request Form

Information:

First Name: james  
Last Name: oliviero  
Company: KSW Mechanical  
Mailing Address 1: 37-16 23rd St  
Mailing Address 2:  
City: Long Island City  
State: NY  
Zip Code: 11101  
Email Address: [joliviero@ksww.com](mailto:joliviero@ksww.com)  
Phone: 718340 1409  
Required copies of the records: Yes

List of specific record(s):

Builders Risk Insurance Policy 7478465 issued by Lexington Insurance Company to the Port Authority for the period 4-30-2007 thru 8-31-2013 covering the 9/11 Memorial project. The policy is at the Port Authority's Treasury Department at 225 Park Ave. So.

**THE PORT AUTHORITY OF NY & NJ**

*FOI Administrator*

July 29, 2013

Mr. James Oliviero  
KSW Mechanical  
37-16 23rd Street  
Long Island City, NY 11101

Re: Freedom of Information Reference No. 14135

Dear Mr. Oliviero:

This is a response to your July 12, 2013 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code"), for Builders Risk Insurance Policy 7478465 issued by Lexington Insurance Company to the Port Authority for the period 4-30-2007 thru 8-31-2013 covering the 911 Memorial project.

Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/14135-O.pdf>.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Ann L. Qureshi  
FOI Administrator

LEXINGTON INSURANCE COMPANY  
Administrative Office 100 Summer Street, Boston, Massachusetts 02110-2103  
(hereinafter called the Company)

COMMERCIAL PROPERTY POLICY  
DECLARATIONS

POLICY NUMBER: 7478465

RENEWAL OF: NEW

ITEM 1. Named Insured: THE PORT AUTHORITY OF NEW YORK & NEW JERSEY

Address: . 225 PARK AVENUE SOUTH  
TREASURY RISK MANAGEMENT, 12<sup>TH</sup> FL  
NEW YORK NY 10003

ITEM 2. Policy Period:  
From 04/30/07 To 12/31/11  
at 12:01 A.M. Standard Time at the address of the named insured shown above.

ITEM 3. Limit of Insurance:  
\$135,000,000 P/O \$500,000,000

Total Premium \$2,970,000

Minimum Earned Premium \$742,500

ITEM 4. Perils:  
AS PER BROKERS MANUSCRIPT FORM

ITEM 5. Description of Property Covered:  
AS PER BROKERS MANUSCRIPT FORM

Coinsurance  
NIL

ITEM 6. Mortgagee Clause: Loss, if any shall be payable to:

ITEM 7. Forms Attached:

See attached forms schedule



Authorized Representative OR  
Countersignature (in states where applicable)

## FORMS SCHEDULE

Named Insured: THE PORT AUTHORITY OF NEW YORK & NEW JERSEY

Policy No: 7478465

Effective Date: 04/30/2007

Form Number	Edition Date	Endorsement Number	Title
PRIMAS	01/91		IM SCHEDULE
PRPDEC	01/91		PROPERTY DEC
PR9019	01/94		STANDARD PROPERTY CONDITIONS
PR9885	11/05		COVERAGE TERRITORY ENDORSEMENT BROKERS MANUSCRIPT FORM

**POLICYHOLDER NOTICE**

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

**LEXINGTON INSURANCE COMPANY**

ANY REFERENCE IN THE POLICY FORM TO CONTACT IN WRITING THE COMPANY'S CLAIM OR LEGAL DEPARTMENTS SHOULD USE THE ADDRESSES PROVIDED BELOW.

Attn: Claim Department  
Lexington Insurance Company  
100 Summer Street  
Boston, Massachusetts 02110-2103

Attn: Legal Department  
Lexington Insurance Company  
100 Summer Street  
Boston, Massachusetts 02110-2103

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THE INSURER(S) NAMED HEREIN IS (ARE) NOT LICENSED BY THE STATE OF NEW YORK, NOT SUBJECT TO ITS SUPERVISION, AND IN THE EVENT OF THE INSOLVENCY OF THE INSURER(S), NOT PROTECTED BY THE NEW YORK STATE SECURITY FUNDS. THE POLICY MAY NOT BE SUBJECT TO ALL OF THE REGULATIONS OF THE INSURANCE DEPARTMENT PERTAINING TO POLICY FORMS.

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**INLAND MARINE**  
**Schedule of Coverage**

**Policy Number:** 7478465

**Issued to:** THE PORT AUTHORITY OF NEW YORK & NEW JERSEY

<u>Description of Premises</u>	<u>Perils</u>	<u>Limit</u>	<u>Percent of Coins</u>
WORLD TRADE CENTER SITE BOUNDED BY VESEY, CHURCH, LIBERTY AND WEST STREETS, NEW YORK, NY		\$135,000,000	

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**LEXINGTON INSURANCE COMPANY**  
**Standard Property Conditions**

This endorsement effective 04/30/07, forms a part of Policy Number 7478465 issued to THE PORT AUTHORITY OF NEW YORK & NEW JERSEY by Lexington Insurance Company (hereinafter called "the Company").

In consideration of the premium charged, the following clauses are hereby made applicable under this policy.

**MINIMUM EARNED PREMIUM CLAUSE**

In the event of cancellation of this policy by the Insured, a minimum premium of \$742,500 shall become earned, any provision of the policy to the contrary notwithstanding.

Failure of the Insured to make timely payment of premium shall be considered a request by the Insured for the Company to cancel on the Insured's behalf. In the event of such cancellation for non-payment of premium, the minimum earned premium shall be due and payable; provided, however, such cancellation shall be rescinded if the Insured remits and the Company receives the full policy premium with 10 days after the date of issuance of the cancellation notice. Such remittance and acceptance by the Company shall not effect the minimum earned premium provision of this endorsement. In the event of any other cancellation by the Company, the earned premium shall be computed pro-rata, not subject to the minimum earned premium.

**POLICY DEDUCTIBLE**

Each claim for loss or damage separately occurring shall be adjusted separately and from each such adjusted claim, the amount of \$250,000 shall be deducted. Notwithstanding the foregoing, the deductible amount applying to certain peril(s) insured against by this policy shall be as follows:

\$250,000	deductible applying to	AND AS PER BUILDERS RISK POLICY FORM
	deductible applying to	

In the event of any other insurance covering the property insured hereunder, whether or not concurrent, the deductible(s) specified herein shall apply in full against that portion of any claim for loss or damage which the Company is called upon to pay under the provisions of the Apportionment Clause irrespective of any provisions to the contrary of such other insurance.

**CANCELLATION CLAUSE**

Except and to the extent of the Minimum Earned Premium Clause which is part of this policy, this clause supersedes other cancellation clauses made a part of this policy.

**CANCELLATION:** This policy may be cancelled by the Insured by surrender thereof to the Company or by mailing to the Company written notice stating when thereafter such cancellation shall be effective. This policy may be cancelled by the Company by mailing to the Insured, at the mailing address shown in this policy or last known address, written notice, stating when, not less than 90 days thereafter (10 days for non-payment of premium) such cancellation shall be effective. The effectiveness of cancellation is not dependent on the return of unearned premium with the notice. Proof of mailing of notice as aforesaid shall be sufficient proof of notice. The effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the Insured or the Company shall be equivalent to mailing. If the Insured cancels, earned premium shall be computed in accordance with the customary short rate table and procedure. If the Company cancels, earned premium shall be computed pro rata. Premium adjustment shall be made as soon as practicable after cancellation becomes effective.

**SERVICE OF SUIT CLAUSE**

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

of such court or of any appellate court in the event of an appeal. -

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

#### WAR RISK EXCLUSION CLAUSE

The Company shall not be liable for any loss, caused directly or indirectly, by (1) hostile or warlike action in time of peace or war, whether or not declared, including action in hindering, combating or defending against an actual, impending or expected attack (a) by government or sovereign power (dejure or de facto) or by any authority maintaining or using military, naval or air forces; or (b) by military, naval or air forces; or (c) by an agent of any such government, power, authority or force (2) any weapon of war employing atomic fission or radioactive force whether in time of peace or war, whether or not its discharge was accidental; (3) insurrection, rebellion, revolution, civil war, usurped power, or action taken by government authority in hindering, combating, or defending against such an occurrence, seizure or destruction; (4) any consequence of any of the foregoing.

#### NUCLEAR EXCLUSION CLAUSE

The Company shall not be liable for loss by nuclear reaction or nuclear radiation or radioactive contamination all whether controlled or not, 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 policy. If the peril of fire is insured under this policy, then, subject to the foregoing and all provisions of this policy, direct loss by fire resulting from nuclear reaction or nuclear radiation or radioactive contamination is insured against by this policy.

#### SALVAGE AND RECOVERY CLAUSE

All salvages, recoveries and payments recovered or received either prior or subsequent to a loss settlement under this policy shall be applied as if recovered or received prior to the said settlement and all necessary adjustments shall be made by the parties hereto, including deduction of the Company's cost of recovery or salvage.

#### REPORTING CLAUSE

Notwithstanding that the Insured may be obligated to report full values for premium purposes, the Company's maximum limit of liability shall not exceed that amount stated as the policy limit of liability.

#### PROOF OF LOSS AND PAYMENT

The Insured shall complete and sign a sworn proof of loss within ninety (90) days after the occurrence of a loss (unless such period be extended by the written agreement of the Company) stating the time, place and cause of loss, the interest of the Insured and of all others in the property, the sound value thereof and the amount of loss or damage thereto, and all other insurance thereon. All adjusted claims shall be due and payable thirty (30) days after the presentation and acceptance of satisfactory proof(s) of loss at the office of the Company at 100 Summer Street, Boston, Massachusetts 02110-2103.

#### GOVERNMENT ACTIVITY CLAUSE

The Company shall not be liable for loss or damage caused by or resulting from: (1) the seizure or destruction of property insured by this policy by any government body, including any customs or quarantine action, or (2) confiscation or destruction of any property by order of any government or public authority, except an order to destroy property to prevent the spread of fire or explosion.

IN WITNESS WHEREOF, the Company has caused this policy to be executed and attested, but this policy shall not be valid unless countersigned in the Declarations by one of its duly authorized representatives.

  
Secretary

  
Chairman of the Board and CEO

**ENDORSEMENT**

**This endorsement, effective 12:01 AM 04/30/2007**

**Forms a part of policy no.: 7478465**

**Issued to: THE PORT AUTHORITY OF NEW YORK & NEW JERSEY**

**By: LEXINGTON INSURANCE COMPANY**

**COVERAGE TERRITORY ENDORSEMENT**

This endorsement modifies insurance provided under the following:

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

  
\_\_\_\_\_  
Authorized Representative OR  
Countersignature (In states where applicable)

	<b>COMPLETED VALUE BUILDERS RISK POLICY</b> <b>SECTION A - DECLARATIONS</b>
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*Any word appearing in bold face capitalized type followed by an asterisk is a defined term.  
Please refer to SECTION D - DEFINITIONS*

1. A. **NAMED INSURED(S):**

The Port Authority of New York and New Jersey  
225 Park Avenue South  
Treasury Risk Management 12<sup>th</sup> Floor  
New York, N.Y. 10003

and any subsidiary, affiliated, associated, or allied company, corporation, firm, organization, and the Insured's interest in partnerships, limited partnerships, joint venture, and/or any owned (wholly or partially) or controlled company(ies) or other legal entity where the Insured maintains an interest, or over which it exercises management control or which the Insured agrees to insure, as now or hereafter constituted or acquired; and any other party or interest that is required by contract or agreement.

B. **ADDITIONAL INSURED(S):**

To the extent required by any contract or subcontract for an **INSURED PROJECT\***, and then only as their respective interests may appear any individual(s) or entity(ies) specified in such contract or subcontract are recognized as Additional Insureds hereunder. As respects architects, engineers, manufacturers and suppliers, the foregoing is limited to their site activities only.

Additional Insureds as provided above, shall be as shown on ACORD Certificates of Insurance issued by AON Inc., copies of which will be forwarded to this Company and kept on file.

All hereinafter referred to as the Insured.

The first Named Insured shall be deemed the sole and irrevocable agent of each and every Insured hereunder for the purpose of giving and receiving notices to / from the Company, giving instruction to or agreeing with the Company as respects Policy alteration and for making or receiving payments of premium or adjustments to premium.

2. **LOSS PAYEE(S):**

Loss Payees and Mortgagees, all as their respective interest may appear, shall be as shown on ACORD Certificates of Insurance issued by AON Inc, copies of which will be forwarded to this Company and kept on file.

Loss, if any, shall be adjusted with and made payable to the Named Insured and designated Loss Payees & Mortgagees, or as per order of the Named Insured, whose receipt shall constitute a release in full of all liability under this Policy with respect to such loss.

3. **TERM OF INSURANCE:**

This Policy shall be effective on April 30, 2007 and shall continue in full force and effect until the expiration date of December 31, 2011, both at 12:01 A.M. standard time at the location of the **INSURED PROJECT\***. Notwithstanding the foregoing scheduled period of coverage for each **INSURED PROJECT\*** is:

Project 1: Freedom Tower: April 30, 2007 to December 31, 2011 and  
Project 2: WTC Memorial: April 30, 2007 to August 1, 2011.

Such coverage will apply only for such periods commencing directly with work at the **INSURED PROJECT\*** and continuing in full force and effect until the earlier of the final acceptance by the owner, the expiration or cancellation date as herein provided or the expiry of the Named Insured's interest unless otherwise agreed by endorsement.

In the event that:

A. An owner places insurance on any portion of the work which has been declared and accepted as Substantially Complete; or

B. Any portion of the work is occupied or placed into **COMMERCIAL SERVICE\*** for its intended purpose;

coverage hereunder as respects such portion of the work shall cease as of the Substantial Completion Date as stated in the Certificate of Substantial Completion, the date of **OCCUPANCY\*** or the date of **COMMERCIAL SERVICE\***, whichever first occurs.

Notwithstanding the foregoing Coverage is extended to permit partial occupancy / operation of any machinery, facility or other property insured hereunder being a part of an **Insured Project** but prior to final acceptance by the Owner and coverage shall not be reduced due to such partial occupancy/operation.

The term of insurance includes a **HOT TESTING PERIOD\*** not exceeding full projects' term.

4. **EXTENSION OF TERM OF INSURANCE:**

The term of this Policy, the **HOT TESTING PERIOD\*** or both may be extended at the Named Insured's request made in writing to the Company prior to expiration of coverage at pro-rata premium for each **INSURED PROJECT\***, thereafter the term of this Policy, the **HOT TESTING PERIOD\*** or both may be extended at the Named Insured's request made in writing to the Company prior to expiration of coverage and upon the Company's acceptance of same subject to rates, deductibles, limits, terms and conditions to be agreed upon.

5. **SUBSCRIPTION CLAUSE:**

See Endorsement.

6. **LIMIT OF LIABILITY:**

A. **Limit of Liability:**

This Company shall be liable for the estimated **TOTAL CONTRACT VALUE\*** in any one **OCCURRENCE\*** but subject always to the Sublimits and Aggregate Limits of Liability set forth below unless any of the foregoing are specifically amended by endorsement to this Policy.

B. **Sublimits of Liability:**

The Company shall not be liable for more than the following Sublimit(s) of Liability in any one **OCCURRENCE\***, except as respects Delay In Completion coverage – in the aggregate for the Policy term. (NOTE: coverage shall only apply for individual sublimits when a dollar amount is entered below):

- (1) \$ 500,000,000 Physical loss of or damage to property insured at the **INSURED PROJECT\***;
- (2) \$ 0 Delay In Completion – Loss of Income, Loss of Rents or Soft Costs (Refer to Endorsement # 1 for further sublimits applicable);
- (3) \$ 10,000,000 Physical loss of or damage to property insured in Transit - any one conveyance;
- (4) \$ 10,000,000 Physical loss of or damage to property insured in Offsite Storage - any one location;
- (5) \$ 10,000,000 Expediting Expense

- (6) \$ 1,000,000 Physical loss of or damage to plans, blueprints, drawings, renderings, specifications or other contract documents and models at the **INSURED PROJECT**;
- (7) \$ 5,000,000 Fire Brigade Charges / Extinguishing Expenses;
- (8) \$ 50,000,000 Or 25% of the amount of insured physical loss of or damage to property insured whichever is less - Debris Removal;
- (9) \$ 1,000,000 physical damage to Trees, Shrubs, Plants and Landscaping .
- (10) \$ 50,000,000 Ordinance & Law / Demolition & Increased Cost of Construction
- (11) \$ 5,000,000 Pollutant Clean Up and Removal in the aggregate
- (12) \$ 5,000,000 Contractor's Extra Expense
- (13) \$ 25,000,000 Interior Water Damage Extension of Coverage
- (14) \$ 250,000 Claim Preparation Expenses

In no event shall these sublimits of liability increase the Limit or Aggregate Limits of liability.

**C. Annual Aggregate Limits of Liability:**

The maximum amount the Company will pay for loss or damage caused by, resulting from, contributed to, or aggravated by the following perils in any one **OCCURRENCE\***, and / or in the aggregate annually for loss or damage from all **OCCURRENCES\***, shall not exceed the following amounts unless otherwise limited by the Sublimits stated above. (NOTE: coverage shall only apply for individual **Aggregate Limits** when a dollar amount is entered below):

- (1) \$ 50,000,000 by the peril of **EARTHQUAKE\***
- (2) \$ 50,000,000 by the peril of **FLOOD\***
- (3) \$ 250,000,000 by the peril of **COASTAL WINDSTORM\*** when the **INSURED PROJECT\*** is located within an area as defined in Section D – Definitions – Paragraph 1.
- (4) \$ 250,000,000 by the peril of **WINDSTORM\*** when the **INSURED PROJECT\*** is located outside an area as defined in Section D – Definitions – Paragraph 1. No aggregate applies.

**7. DEDUCTIBLES:**

From the amount of each claim for insured physical loss of or damage to property insured arising out of any one **OCCURRENCE\***, there shall be deducted the applicable amount shown below, and then the liability of the Company shall be only for the amount of such insured loss or damage in excess thereof, subject to the Limit, Sublimits or Aggregate Limits of Liability set forth above.

- A. \$ 250,000 physical loss of or damage to property insured ,except
- B. \$ 500,000 as respects **WATER DAMAGE\***;
- C. \$ 500,000 physical loss of or damage from collapse and/or subsidence;
- D. \$ 500,000 physical loss of or damage from **INTERIOR WATER INTRUSION\***
- E. \_\_\_\_\_ % of the total insured values at risk at the time and place of loss subject to a minimum deduction of \$500,000 as respects the peril of **FLOOD\***;
- F. \_\_\_\_\_ % of the total insured values at risk at the time and place of loss subject to a minimum deduction of \$500,000 as respects the peril of **EARTHQUAKE\***;
- G. \_\_\_\_\_ % of the total insured values at risk at the time and place of loss subject to a minimum deduction of \$500,000 as respects the peril of **COASTAL WINDSTORM\***;
- H. \_\_\_\_\_ % of the total insured values at risk at the time and place of loss subject to a minimum deduction of \$500,000 as respects the peril of **WINDSTORM\***;
- I. \$ 250,000 to property insured while undergoing **HOT TESTING\***;

As respects E, F, G and H above, when a percentage (%) is entered absent a corresponding minimum dollar amount, the percentage shall be applied without minimum. When a dollar amount is entered absent a corresponding percentage (%), the word minimum is deleted.

In the event that more than one deductible shown above or specified in any endorsement issued hereunder shall apply to insured physical loss of or damage to property insured in any one OCCURRENCE\*, only the largest shall be applied. As respects Delay In Completion coverage, if applicable hereunder, the DEDUCTIBLE PERIOD\* stated in the Delay In Completion Endorsement attached hereto will always be applied in addition to any dollar deductible stated for physical damage.

**8. ESTIMATED TOTAL CONTRACT VALUE\* OF INSURED PROJECT\* AT POLICY INCEPTION:**

The estimated TOTAL CONTRACT VALUE\* of the INSURED PROJECT\* declared to the Company by the Named Insured at Policy inception is \$2,312,000,000; Physical Damage (hard costs + owner supplied material) consisting of Project 1 Freedom Tower:\$1,800,000,000 and Project 2 WTC Memorial: \$512,000,000

**9. DEPOSIT PREMIUM / REPORTING / ADJUSTMENT:**

**A. Deposit Premium:**

The 100% deposit premium for this Policy is \$11,000,000 and shall be subject to a minimum and earned premium for the Policy term of 25% of the term deposit premium . Upon extension, expiration or cancellation of this Policy, the earned premium shall be adjusted in accordance with the provisions as outlined in C below.

**B. Reporting Provisions:**

At the time of expiration, cancellation, or any extension of this Policy, the Named Insured shall report to the Company the final, actual or revised estimated TOTAL CONTRACT VALUE\* of the INSURED PROJECT\* as of the date of expiration, cancellation or extension respectively.

**C. Premium Adjustment:**

- (1) The final earned premium for this Policy shall be calculated by applying the rates used for the purpose of computing the deposit premium to the actual term of coverage and the TOTAL CONTRACT VALUE\* as reported in accordance with 9.B. above.
- (2) If the premium so calculated shall differ from the deposit premium stated in 9.A. above, such difference shall be due and payable to the Named Insured or the Company, as the case may be, subject to any minimum and earned premium as stated in 9.A. above.
- (3) The rates used for the purpose of calculating the deposit premium and the final earned premium, unless otherwise endorsed hereto, are:

Exposure	Original Policy Coverage Term	Annual Rate	Deposit Premium
Freedom Tower	4.674 years	0.09557 / \$100	\$8,040,838
WTC Memorial	4.258 years	0.13574 / \$100	\$2,959,162
HOT TESTING*	full term months*	Monthly Rate Included / \$100	\$ Included
<b>Total Deposit Premium</b>			<b>\$11,000,000</b>

\*As used above, the term "month" shall mean any period of (30) thirty consecutive days from the commencement of HOT TESTING\* and shall include all idle periods

**10. TERRITORY:**

This Policy covers property while located at the location of the **INSURED PROJECT\*** as stated in Paragraph 12 below and while in transit within and/or offsite storage within the fifty (50) states comprising the United States of America, and within the District of Columbia and within Canada including the territorial coastal waters of any of the foregoing, unless otherwise endorsed to the Policy.

11. **LOCATION OF INSURED PROJECT\***:

World Trade Center Site bounded by Vesey, Church, Liberty, and West Streets , New York, New York

12. **DESCRIPTION OF INSURED PROJECT\*** (including Project Name and/or Contract Number as applicable):

**Project 1: Freedom Tower**

Construction of a 69 story fire resistive office building (height 1776 feet) with Antenna, (404 feet; 123 meters), 2 restaurants, observation deck, and 2 TV broadcast floors..

**Project 2: Memorial Complex**

Construction of 2 Reflecting Pools, Memorial Museum, Visitors Orientation and Education Center(VOEC), and Memorial Plaza and Redevelopment of approximately 8 acres of land.

	<b>COMPLETED VALUE BUILDERS RISK POLICY</b> <b>SECTION B – COVERAGE AND EXCLUSIONS</b>
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1. **INSURING AGREEMENT:**

This policy, subject to the terms, exclusions, limitations and conditions contained herein or endorsed hereto, insures against all risks of direct physical loss of or damage to property insured while at the location of the **INSURED PROJECT\***, while in offsite storage or while in transit, all within the policy territory and occurring during the term of this policy.

2. **PROPERTY INSURED:**

- A. Permanent Works - All materials, supplies, equipment, machinery, and other property of a similar nature, being property of the Insured or of others for which the Insured may be contractually responsible, the value of which has been included in the estimated **TOTAL CONTRACT VALUE\*** of the **INSURED PROJECT\*** declared by the Named Insured, all when used or to be used in or incidental to the demolition of existing structures, site preparation, fabrication or assembly, installation or erection, alteration, renovation or construction of the **INSURED PROJECT\***.
- B. Temporary works - All scaffolding, form work, fences, shoring, hoarding, falsework and temporary buildings all incidental to the project, the value of which has been included in the estimated **TOTAL CONTRACT VALUE\*** of the **INSURED PROJECT\*** declared by the Named Insured.

3. **PROPERTY EXCLUDED:**

This policy does not insure:

- A. Land and land values and the value of cut, fill and backfill materials which existed at the project site prior to project commencement; however, to the extent included in the estimated **TOTAL CONTRACT VALUE\*** declared for premium purposes, the value of fill and backfill materials purchased for use in the completion of the project is not excluded. Notwithstanding the foregoing, labor and material charges incurred to move, remove, place or otherwise handle cut, fill and backfill materials, whether insured or uninsured in the foregoing, are covered to the extent such charges are included in the estimated **TOTAL CONTRACT VALUE\*** declared for premium purposes;
- B. Contractor's tools, machinery, plant and equipment including spare parts and accessories, whether owned, loaned, borrowed, hired or leased, and property of a similar nature not destined to become a permanent part of the **INSURED PROJECT\***;
- C. Vehicles or equipment licensed for highway use, rolling stock, aircraft or watercraft;
- D. Water, standing timber, growing crops and animals;
- E. Accounts, bills, currency, stamps, deeds, evidence of debt, checks, money, securities, precious metals, precious stones or other property of a similar nature;
- F. Existing property at the location of the **INSURED PROJECT\*** unless declared to the Company in advance and specifically endorsed to the policy;
- G. Prototype, developmental or used machinery and equipment but only as to damage while undergoing any form of testing, commissioning or startup unless specifically endorsed to the policy;
- H. Any property located at a site which stores, processes, handles or makes use of radioactive materials unless reported to and accepted by the Company. The foregoing shall not apply to locations or property making use of radioactive isotopes contained within equipment used for diagnostic or testing purposes.

I. Property located at other than the location of **INSURED PROJECT\*** except as covered under the Transit or Offsite Storage Extensions of Coverage;

J. Transmission and distribution lines upon energization at the completion of testing.

**4. PERILS EXCLUDED:**

This policy shall not pay for loss or damage caused by, resulting from, contributed to or made worse by any of the following excluded perils, all whether direct or indirect, proximate or remote or in whole or in part caused by, contributed to or aggravated by any physical loss or damage insured by this Policy, except as specifically allowed below:

A. Consequential loss, damage or expense of any kind or description including but not limited to loss of market or delay, liquidated damages, performance penalties, penalties for non-completion, delay in completion, or non compliance with contract conditions, whether caused by a peril insured or otherwise, however the foregoing shall not exclude Delay in Completion Coverage when it is endorsed to this policy;

**B. COST OF MAKING GOOD\***

(1) Faulty or defective workmanship, supplies or material;

(2) Fault, defect, error, deficiency or omission in design, plan or specification;

(3) Wear and tear, gradual deterioration, inherent vice, latent defect, corrosion, rust, dampness or dryness of the atmosphere;

Unless direct physical loss or damage by an insured peril ensues and then this Policy will cover for such ensuing loss or damage only.

For the purpose of this Policy and not merely this exclusion, the property insured, or any portion thereof, shall not be regarded as damaged solely by virtue of the existence of any condition stated under (1), (2) or (3) above.

C. (1) Hostile or warlike action in time of peace or war, including action in hindering, combating, or defending against an actual, impending, or expected attack by (1) any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval, air forces, or (2) military, naval, or air forces, or (3) an agent of any such government, power, authority, or forces, it being understood that any discharge, explosion, or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority, or forces;

(2) Insurrection, rebellion, revolution, civil war, usurped power or action taken by governmental authority in hindering, combating, or defending against such occurrence;

(3) Seizure or destruction of property by order of governmental authority. However, if fire is covered by this policy, the Company will pay for acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread;

D. Nuclear reaction, nuclear radiation or radioactive contamination however such may have been caused; nevertheless if a fire arises directly or indirectly any of the foregoing, any loss or damage arising directly from that fire shall (subject to the provisions of this policy) be covered, excluding however all loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination arising directly or indirectly from that fire;

E. Disappearance or when revealed by inventory shortage alone;

F. Infidelity, dishonesty or fraudulent activity of the Insured or any of the Insured's partners, officers, directors, trustees, employees or others to whom the insured property is entrusted;

- G. Loss, damage, costs, expenses, fines or penalties incurred or sustained by or imposed on the Insured at the order of any government agency, court or other authority arising from any cause whatsoever beyond the demolition of any damaged portion of the project no longer useful for its intended purpose;
- H. Any form of fungus, however caused, including but not limited to yeast, mold, mildew, smut, mushrooms, spores or any substance, product or byproduct produced by, released by or arising as a consequence of the past or current existence of fungus. Any expense to remediate the presence or effects of any of the foregoing shall also be excluded.
- I. Actual, alleged or threatened release, discharge, escape or dispersal of **CONTAMINANTS OR POLLUTANTS\***; all whether direct or indirect, proximate or remote or in whole or in part caused by, contributed to or aggravated by any physical loss or damage insured by this policy;

Nevertheless, if fire is not excluded from this policy and a fire arises directly or indirectly from actual release, discharge, escape or dispersal of **CONTAMINANTS OR POLLUTANTS\***, any loss or damage insured under this policy arising directly from that fire is insured, subject to the provisions of this policy;

This exclusion shall not apply when loss or damage is directly caused by fire, lightning, aircraft impact, explosion, riot, civil commotion, smoke, vehicle impact, windstorm, hail, vandalism or malicious mischief, leakage or accidental discharge from automatic **FIRE PROTECTION SYSTEMS\***;

- J. (1) Asbestos material removal;
- (2) Demolition or increased cost of reconstruction, repair, debris removal or loss of use necessitated by the enforcement of any law or ordinance regulating asbestos material;
- (3) Any governmental order or direction declaring that asbestos material which is present in or part of or utilized on any portion of the **INSURED PROJECT\*** must be removed or modified;
- K. Loss or damage covered under any written or implied guarantee or warranty by any manufacturer or supplier, but only to the extent of recovery from such written or implied guarantee or warranty;
- L. Normal subsidence, settling, cracking, expansion, contraction or shrinkage of walls, floors, ceilings, buildings, foundations, patios, walkways, driveways or pavements;
- M. Cessation of work, whether total or partial. Cessation of work as used herein shall not mean any period of time during which operations would not normally have been conducted such as Saturdays, Sundays or holidays, nor shall it mean seasonal inactivity planned in advance, schedule delays due to weather, labor actions beyond the Insured's control or suspension of project activity which has been occasioned by loss or damage covered under this Policy provided the **INSURED PROJECT\*** is maintained and protected against loss during such inactivity.
- N. Infestation, disease, freeze, drought and hail, weight of ice or snow or any damage caused by insects, vermin, rodents or animals, but only as respects **EXTENSION OF COVERAGE D. - Trees, Plants, Shrubs And Landscaping.**
- O. Erosion of graded or planted finish or rough grades which results from normally expected or predictable precipitation and surface water runoff.
- P. As respects **EXTENSION OF COVERAGE E. - Plans, Blueprints, Drawings, Etc.,** electrical or magnetic injury to or errors and omissions in creating, processing or copying electronic records, however caused;
- Q. The Company will not pay for any **SOFTWARE LOSS\***. To the extent coverage for equipment, hardware, media or device is provided in the Policy, this exclusion does not apply:
  - (1) if the **SOFTWARE LOSS\*** results solely from direct physical loss of or direct physical damage to the equipment, hardware, media or device on which the program, software or operating system, programming instructions, or data are transported, processed or contained;
  - (2) to direct physical loss of or direct physical damage to tangible property insured that results from a **SOFTWARE LOSS\***;

For the purposes of this exclusion, program, software or operating system, programming instruction and data are not tangible property insured.

- R. Water damage to property stored in the open or which results from water entering a structure through unprotected openings in foundations, floors, walls and roofs.

**S. PROPERTY Y2K MILLENNIUM EXCLUSION**

1. The Company will not pay for Damage or Consequential Loss directly or indirectly caused by, consisting of, or arising from, the failure of any computer, data processing equipment or media microchip, operating systems, microprocessors (computer chip), integrated circuit or similar device, or any computer software, whether the property of the insured or not and whether occurring before, during or after the year 2000 that results from the inability to:

- a. correctly recognize any date as its true calendar date;
- b. capture, save, or retain and/or correctly manipulate, interpret or process any data or information or command or instruction as a result of treating any date otherwise than as its true calendar date; date/or
- c. capture, save, retain or correctly process any data as a result of the operation of any command which has been programmed into any computer software, being a command which causes the loss of data or the inability to capture, save, retain or correctly process such data on or any date.

2. The Company will not pay for the repair or modification of any part of an electronic data processing system or its related equipment, to correct deficiencies or features of logic or operation.

3. The Company will not pay for Damage or Consequential Loss arising from the failure, inadequacy, or malfunction of any advice, consultation, design evaluation, inspection installation, maintenance, repair or supervision done by the Insured or for the Insured or by or for others to determine, rectify or test, any potential or actual failure, malfunction or inadequacy described in 1. above.

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.

These clauses shall not exclude subsequent Damage or Consequential Loss, not otherwise excluded, which itself results from a Defined Peril. Defined Peril shall mean: fire, lightning, explosion aircraft or vehicle impact, falling objects, windstorm, hail, tornado, hurricane, riot, strike, civil commotion, vandalism, malicious mischief, earthquake, volcano, tsunami, freeze or weight of snow.

**T. NUCLEAR, CHEMICAL AND BIOLOGICAL TERRORISM ABSOLUTE EXCLUSION**

Regardless of the amount of damage and losses, and whether TRIA or non certified Terrorism coverage is provided in the policy the following exclusions are absolute as to any incident of terrorism:

1. That involves the use, release or escape of nuclear materials, or that directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or
2. That is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
3. In which pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

**5. EXTENSIONS OF COVERAGE:**

**A. TRANSIT:**

Subject to the sublimit entered in item 6.B.(3) of the Declarations, coverage applies with respect to property insured from the commencement of loading at the original point of shipment anywhere within the policy territory until completion of unloading at the location of the **INSURED PROJECT\***, including shipments on inland or coastal waters but excluding ocean marine shipments. To the extent others are

responsible for loss or damage to property insured while in transit under terms F.O.B. to a designated location or recipient, this extension of coverage will apply excess thereof and shall not contribute thereto.

The Insured agrees to keep records of all shipments Insured hereunder and make them available to the Company upon request.

This coverage shall be void if the Insured enters into any special agreement with carriers, releasing them from their common law or statutory liability or agreeing that this insurance shall in any way inure to the benefit of such carriers, however, the Insured may, without prejudice to this coverage, accept such bills of lading, receipts, or contracts of transportation as are ordinarily issued by carriers containing a limitation as to the value of property insured.

**B. OFFSITE STORAGE:**

Subject to the sublimit entered in item 6.B.(4) of the Declarations, coverage applies with respect to property insured anywhere within the policy territory but excluding such property while in the course of manufacturing or processing at the manufacturer's or supplier's site or while in transit. To the extent others are responsible for loss or damage to covered property while in offsite storage, this extension of coverage will apply excess thereof and shall not contribute thereto.

**C. EXPEDITING EXPENSE:**

Subject to the sublimit entered in item 6.B.(5) of the Declarations, this policy shall pay for reasonable wages for overtime, night work, and work on public holidays and extra costs of express freight or other rapid means of transportation which are necessary to make temporary repairs and to expedite the permanent repair or replacement of the property insured when damaged by an peril insured, but only to the extent such is necessary to continue as nearly as practicable the normal operation of the work in progress.

**D. TREES, SHRUBS, PLANTINGS AND LANDSCAPING:**

This policy is extended to cover direct physical loss of or damage to trees, plants, shrubs and landscaping materials which are located at the **INSURED PROJECT\***, the value of which have been declared by the Named Insured in the estimated **TOTAL CONTRACT VALUE\*** reported to the Company, however, liability for such shall not exceed \$ 1,000 any one item;

**E. PLANS, BLUEPRINTS, DRAWINGS, ETC:**

Subject to the sublimit entered in item 6.B.(6) of the Declarations, this policy is extended to cover direct physical loss of or damage to plans, blueprints, drawings, renderings, specifications or other contract documents and models while at the **INSURED PROJECT\***.

**F. FIRE BRIGADE CHARGES AND EXTINGUISHING EXPENSES:**

Subject to the sublimit entered in item 6.B.(7) of the Declarations, when property insured is destroyed or damaged by a peril insured, this Policy shall cover:

- (1) fire brigade charges and other extinguishing expenses for which the Insured may be assessed;
- (2) loss of fire extinguishing materials expended in fighting fire;

**G. DEBRIS REMOVAL:**

Subject to the sublimit entered in item 6.B.(8) of the Declarations, in the event of direct physical loss or damage insured against and occurring during the term of this Policy, the Company will pay the following necessary and reasonable costs:

- (1) costs to remove debris being an insured part of the property from the **INSURED PROJECT\***; and/or
- (2) cost of cleanup, at the **INSURED PROJECT\***, made necessary as a result of such direct physical loss or damage.

The Company will not pay the expense or cost to extract **CONTAMINANTS OR POLLUTANTS\*** from land, water and / or debris, or to remove, restore, or replace contaminated or polluted land or water. Nor will the Company remove or transport any property or debris to a site for storage or decontamination required because the property or debris is affected by **CONTAMINANTS OR POLLUTANTS\***, whether or not such removal, transport or decontamination is required by law, ordinance or regulation.

It is a condition precedent to recovery under this extension that the Company shall have paid, or agreed to pay, for direct physical loss or damage to the property insured, unless such payment is precluded solely by the operation of any deductible, and that the Insured shall give written notice to the Company of intent to claim for cost of debris removal or cost to cleanup not later than **twelve (12)** months after the date of such physical loss or damage.

**H. HOT TESTING\*:**

When a specific premium and rate are entered for **HOT TESTING\*** in Paragraph 9 of the DECLARATIONS and a **TESTING PERIOD\*** has been identified in Paragraph 3 of the DECLARATIONS, this policy is extended to cover direct physical loss or damage to the property insured which is caused by or results from **HOT TESTING\***. However, no coverage is provided under this extension for:

- (1) Loss or damage to catalysts;
- (2) Loss or damage to refractory linings and brickwork from the time of the first application of heat unless such loss or damage directly results from insured loss or damage to other property insured;

The Insured warrants that supervisory and safety systems shall not be deliberately or knowingly circumvented during the conduct of **HOT TESTING\***. It is further warranted that all instrumentation and protection will be installed and activated prior to the conduct of any **HOT TESTING\***. These warranties shall not apply when it is standard accepted industry practice and / or manufacturer's specification that such circumvention is necessary for the conduct of individual activities within the conduct of **HOT TESTING\*** provided that such circumvention does not extend beyond said individual activities.

**I. LAW OR ORDINANCE /DEMOLITION AND INCREASED COST OF CONSTRUCTION**

Subject to the **SUBLIMIT OF LIABILITY** stated under paragraph 6.B.(10) of the DECLARATIONS, in the event of direct physical loss or damage insured hereunder and occurring during the policy period, that causes the enforcement of any law or ordinance in effect at the time of loss that regulates the repair, rebuilding or re-construction of the damaged portions of the **INSURED PROJECT\***, then to the extent required by such enforcement of any law or ordinance, the Company shall be liable for:

1. Cost of demolishing any undamaged parts of the project including the cost of clearing the site.
2. Increased cost of repair, rebuilding or re-construction of the damaged portions of the **INSURED PROJECTS\*** on the same premises but not exceeding like height, floor area, style and limited to the minimum requirements of the law or ordinance.
3. If applicable under the policy or endorsements thereto, the increase in the Delay In Completion coverage loss arising out of the additional time required to comply with the requirements of said law or ordinance. Such additional time will not exceed **thirty (30)** consecutive days.

With respect to coverage provided by Paragraph 2., the Company shall not be liable for any loss, unless and until the damaged or destroyed building(s) or structure(s) is actually rebuilt or replaced on the same premises with due diligence and dispatch and in no event, unless repair or replacement is completed within two (2) years after the date of destruction or damage or within such further time as the Company may allow, in writing, during the two (2) years.

The following costs are not reimbursable in the event of a loss hereunder:

1. Cost of demolition or increased cost of repair or reconstruction, debris removal, or other consequential loss caused by the enforcement of any law or ordinance regulating asbestos or other hazardous material;
2. Cost of any governmental direction or request declaring that asbestos or other hazardous material present in or part of or utilized on any undamaged portion of insured property can no longer be used for the purpose for which it was intended or installed and must be removed or modified.
3. Cost of demolition or increased cost of repair or reconstruction, debris removal, or other consequential loss caused by the enforcement of any law or ordinance regulating **CONTAMINANTS OR POLLUTANTS\***;
4. Cost of compliance with the enforcement of any law or ordinance which the Insured or owner would have otherwise incurred by nature of such law or ordinance in the absence of any loss or damage covered by this policy.

#### J. POLLUTANT CLEAN UP AND REMOVAL EXTENSION OF COVERAGE

Subject to the SUBLIMIT OF LIABILITY stated under paragraph 6.B.(11) of the DECLARATIONS, in the event of direct physical loss or damage insured hereunder and occurring during the policy period, the policy is extended to cover the cost of cleanup or decontamination as a result of sudden and unforeseen loss caused by **CONTAMINANTS OR POLLUTANTS\*** on the **INSURED PROJECTS\*** sites at time of **OCCURRENCE\*** but restricted to the **INSURED PROJECTS\*** sites; demolition, or removal of any insured property to the extent required by the enforcement of any law, regulation, or ordinance regulating the construction, repair, or demolition of buildings or structures subsequent to and necessitated by a loss caused by an Insured peril provided that such law, regulation, or ordinance is in effect at the time of loss. However, the total liability under this policy for both loss to and removal of insured property shall not exceed the Sublimit of Liability applying under paragraph 6.B.(12) of the DECLARATIONS. No additional costs of reconstruction or additional costs of repair by reason of any law, regulation, or ordinance are included hereunder. The foregoing shall not invalidate any other provisions of the policy or endorsements attached to the policy.

Any costs incurred hereunder shall be subject to the deductible applicable to the cause of loss that necessitates such costs.

Sublimits of Liability are part of and not in addition to the Policy Limit of Liability.

#### K. CONTRACTOR'S EXTRA EXPENSE

Subject to the SUBLIMIT OF LIABILITY stated under paragraph 6.B.(12) of the DECLARATIONS, in the event of direct physical loss or damage insured hereunder and occurring during the policy period, the policy is extended to cover Extra Expense incurred as a result of such direct physical loss or damage to the **INSURED PROJECTS\*** hereunder.

Extra Expense shall be defined as the reasonable and necessary excess costs incurred during the period of restoration and repair that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred. Extra expense shall include, but not be limited to equipment rental, emergency expenses, temporary use of property, demobilization and remobilization of equipment and facilities and expenses necessarily incurred to reduce loss excluding, however, any Additional Interest Expense, Debt Service, Business Interruption, Loss of Income, Loss or Earnings, Loss of Rents or Delay In Completion and Acceleration Expense.

Any costs incurred hereunder shall be subject to the deductible applicable to the cause of loss that necessitates such costs. In the event that the amount of physical loss or damage to insured property as a result of a covered cause of loss under this policy is less than the applicable deductible stated elsewhere in this policy, the Company shall not accept a claim for nor be liable for excess costs as covered herein.

**L. INTERIOR WATER DAMAGE EXTENSION OF COVERAGE**

**Exclusion R. INTERIOR WATER DAMAGE** in the Perils Excluded clause of the Completed Value Builders Risk Form is deleted and the following provisions apply as an Extension of Coverage:

Subject to the SUBLIMIT OF LIABILITY stated under paragraph 6.B.(13) of the DECLARATIONS, in the event of direct physical loss or damage insured hereunder and occurring during the policy period, the policy is extended to cover loss or damage to covered property caused by, arising out of, contributed to, or resulting from rain, snow, sleet or ice, all whether wind driven or not, entering the interior of any building or structure undergoing construction or renovation without first sustaining any damage to the exterior of the building or structure and whether or not the roof and outside walls is complete\*. The foregoing extension does not apply to damage to property stored in the open caused water, rain, snow, sleet or ice.

The Insured agrees to take all appropriate precautions to avoid loss or damage to covered property from the perils enumerated above.

\* "complete" means "dried in" defined as final roofing installed according to the project specifications and exterior wrap or similar equivalent water barrier installed and windows installed all per project specifications.

**M. Claim Preparation Expenses**

Subject to the SUBLIMIT OF LIABILITY stated under paragraph 6.B.(14) of the DECLARATIONS, in the event of direct physical loss or damage insured hereunder and occurring during the policy period this policy is extended to cover reasonable and necessary additional expenses incurred by the Insured which are directly related to the preparation, substantiation and / or documentation of any claim for direct physical loss or damage to insured property as a result of a covered cause of loss under this policy. Any costs incurred for the services or efforts of a Public Adjuster are expressly excluded.

The Company shall have no liability for any additional expense hereunder unless and until a claim for physical loss or damage to insured property as a result of a covered cause of loss under this policy has been submitted to and accepted by the Company.

Any costs incurred hereunder shall be subject to the deductible applicable to the cause of loss that necessitates such costs. In the event that the amount of physical loss or damage to insured property as a result of a covered cause of loss under this policy is less than the applicable deductible stated elsewhere in this policy, the Company shall not accept a claim for nor be liable for additional expenses as covered herein.

	<b>COMPLETED VALUE BUILDERS RISK POLICY</b> <b>SECTION C – GENERAL CONDITIONS</b>
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**1. OBSERVANCE OF CONDITIONS:**

The due observance and fulfillment of the terms and conditions of this policy by the Named Insured, insofar as they relate to anything to be done or complied with by them, shall be a condition precedent to any liability of the Company to make payment for loss under this policy.

**2. INCREASED HAZARD:**

If the circumstances in which this insurance was entered into shall be altered or if the risk shall be materially increased, the Named Insured shall give notice in writing to the Company within thirty (30) days of the Named Insured's knowledge of the same..

3. **MISREPRESENTATION & FRAUD:**

This policy shall be void if the Named Insured has concealed or misrepresented any material fact or circumstances concerning this insurance or the subject thereof, or in case of any fraud, attempted fraud or false swearing by the Named Insured touching any matter relating to this insurance or the subject thereof, whether before or after a loss.

4. **ERRORS & OMISSIONS:**

With the exception that the Named Insured is required to request extension of this policy in writing prior to expiration of coverage, no unintentional errors or omissions in any information relative to this insurance or required to be reported to the Company in compliance with the requirements of this Policy will prejudice the Named Insured's right of recovery, but will be reported to the Company within thirty (30) days of the Named Insured's discovery of the same.

5. **INSPECTION & AUDIT:**

The Company can inspect the property insured at any reasonable time. However, neither the Company's inspection nor any report thereof can serve as any representation that the property insured or operations are safe or healthful, or that they comply with any law, rule or regulation.

During the Policy period and within one year after the final termination of the policy, the Company may examine and audit the Named Insured's books and records at any reasonable time, as long as such relates to the subject matter of this Policy.

6. **CLAIM AGAINST TRANSIT CARRIER AND/OR BAILEE:**

No claim for loss or damage during transit shall be payable hereunder until the Named Insured has filed a claim with and made reasonable efforts to secure payment from the transporting carrier and the carrier has denied liability.

7. **PROTECTION OF PROPERTY:**

The Named Insured will take reasonable steps to protect, recover or save the property insured and minimize any further or potential loss or damage when:

- A. The property insured has sustained direct physical loss or damage by an insured peril; or
- B. The property insured is in imminent danger of sustaining direct physical loss or damage from:
  - (1) WINDSTORM\*, but only when the potential for the same to occur and to affect property insured has been forecasted by the National Weather Service;
  - (2) FLOOD\*, but only when the potential for the same to occur and to affect property insured has been forecasted by the National Weather Service or the U.S. Army Corps of Engineers.
  - (3) Fire;

The acts of the Named Insured or the Company in protecting, recovering or saving the property insured will not be considered a waiver or an acceptance of abandonment. The Named Insured and the Company will bear the expense incurred proportionate to their respective interests.

The foregoing shall not serve to increase the Limit of Liability stated in the DECLARATIONS and shall be subject to the deductible provisions of the policy.

8. **EXAMINATION UNDER OATH:**

The Named Insured shall submit and shall cause all other persons to submit, so far as is within their power, to examination under oath by any persons named by the Company relative to any and all matters in connection with a claim and shall produce for examination all books of account, bills, invoices, and other vouchers or certified copies thereof if originals are lost, at such reasonable time and place as may be designated by the Company or its representatives and shall permit extracts and copies thereof to be made.

9. **IN CASE OF LOSS:**

A. **Notice of Loss:**

The Named Insured will report in writing to the Company every loss **OCCURRENCE\*** which may give rise to a claim under this Policy as soon as practicable but not later than **thirty (30)** days after it becomes known to the Named Insured.

B. **Proof of Loss:**

The Named Insured will file with the Company a signed and sworn detailed proof of loss as soon as practicable, but not later than **sixty (60)** days following the Company's request.

C. **Payment of Loss:**

All adjusted claims, including partial payments thereon, will be due and payable no later than **(60) sixty** days after presentation and acceptance of proof of loss or partial proof of loss, as the case may be, by this Company or its appointed representative.

10. **PARTIAL LOSS:**

The Company hereby grants permission to repair partial damage to the property insured which can be conveniently and advantageously undertaken to protect property insured from further damage. The Company will reimburse the Insured who has suffered the loss for the actual cost of such repairs, subject always to the terms and conditions of this policy. Nothing in this clause shall be deemed to have waived the requirement that notice of loss be given to the Company as provided in the policy.

11. **SUBROGATION:**

If the Company pays a claim under this policy, they will be subrogated to the extent of such payment, to all the Insured's rights of recovery from other persons, organizations and entities. The Insured will execute and deliver instruments and papers and do whatever else is necessary to secure such rights.

The Company will have no rights of subrogation against:

- A. Any person or entity, which is a Named Insured or an Additional Insured;
- B. Any other person or entity, which the Insured has waived its rights of subrogation against in writing before the time of loss;

Notwithstanding the foregoing, it is a condition of this policy that the Company shall be subrogated to all the Insured's rights of recovery against:

- A. any Architect or Engineer, whether named as an Insured or not, for any loss or damage arising out of the performance of professional services in their capacity as such and caused by any error, omission, deficiency or act of the Architect or Engineer, by any person employed by them or by any others for whose acts they are legally liable, and
- B. any manufacturer or supplier of machinery, equipment or other property, whether named as an Insured or not, for the cost of making good any loss or damage which said party has agreed to make good under a guarantee or warranty, whether expressed or implied.

The Insured will act in concert with the Company and all other interest concerned in the exercise of such rights of recovery. The Insured will do nothing after a loss to prejudice such rights of subrogation.

If any amount is recovered as a result of such proceedings, the net amount recovered after deducting the costs of recovery, will accrue first to the Company up to the amount of loss paid. Any excess of this amount will be remitted to the Insured. If there is no recovery, the interests instituting the proceedings will bear the expense of the proceedings proportionately.

12. **CONTRIBUTING INSURANCE:**

Permission is granted for other policies written upon the same terms, exclusions, limitations and conditions as those contained herein. This policy will contribute to the total of each loss otherwise payable herein to the extent of the participation of this policy in the total limit of liability as provided by all policies written upon the same terms, exclusions, limitations and conditions as those contained in this policy.

13. **EXCESS INSURANCE:**

Permission is granted the Insured to have excess insurance over the limit of liability set forth in this policy without prejudice to this policy, nor will the existence of such insurance, if any, reduce any liability under this policy.

14. **OTHER INSURANCE:**

Except as stated in CONTRIBUTING INSURANCE and EXCESS INSURANCE above, if there is other collectible insurance, this policy will cover as excess insurance and will not contribute with such other insurance.

15. **UNDERLYING INSURANCE:**

Permission is given for the Insured to purchase insurance on all or any part of the deductible(s) or perils of this policy. The existence of such underlying insurance shall not prejudice or affect any recovery otherwise payable under this policy.

16. **RECOVERY OR SALVAGE:**

Any recovery or salvage excluding proceeds from subrogation and other insurance recovered or received after a loss settlement under this policy or any recovery from suretyship, insurance, reinsurance, security or indemnity taken by or for the benefit of the Company will apply as if recovered or received prior to the loss settlement and the loss will be readjusted accordingly.

17. **REINSTATEMENT:**

With the exception of loss or damage caused by perils which are subject to aggregate limits, any loss hereunder will not reduce the amount of this policy.

18. **BANKRUPTCY OR INSOLVENCY:**

Bankruptcy or insolvency of the Named Insured shall not relieve the Company of any of its obligations under this policy.

19. **BRANDS & TRADEMARKS:**

In case of loss or damage by a peril insured to property insured bearing a brand, trademark or label, the Company may take all or any part of the property at any agreed or appraised value. If so, the Insured may, at their own expense:

- A. Stamp salvage on the property or its container, if the stamp will not physically damage the property; or
- B. Remove the brand, trademark or label, if doing so will not physically damage the property. The Insured must re-label the property or its container to comply with the law.

20. **ENTRY, CONTROL, ABANDONMENT:**

After loss or damage to property insured, the Company shall have an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage and, after the Insured has secured the property, a further right of access and entry sufficient to enable them to make an appraisal or estimate of the loss or damage, but the Company shall not be entitled to the control or possession of the property, and without the consent of the Company there can be no abandonment of the property insured.

**21. PAIR & SET:**

- A. In the event of loss of or damage to property insured which is part of a pair or set, the measure of loss of or damage to such property will be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of the lost or damaged property insured to the pair or set, but in no event will such loss or damage be construed to mean total loss of the pair or set; or
- B. In the event of loss or damage to any part of property insured consisting, when complete for use, of several parts, the Company will only be liable for the value of the part lost or damaged.

**22. APPRAISAL:**

If the Insured and the Company fail to agree as to the value of the property or the amount of loss, either may make written demand for an appraisal. In this event, each party will choose a competent and impartial appraiser within **twenty (20)** days after receiving a written request from the other. The appraisers will then select an umpire. If they can not agree upon an umpire within **fifteen (15)** days, either may request the selection by a judge of a court having jurisdiction. The appraisers will then appraise the loss, stating separately the value of the property and the amount of loss to each item, and failing to agree, will submit their differences to the umpire. A decision in writing, so itemized, of any two will be binding. Each party will pay its chosen appraiser and bear the other expense of the appraisal and umpire equally. The Company shall not be held to have waived any of its rights by any act relating to appraisal.

**23. ASSIGNMENT:**

Except in the event of an authorized assignment under the Bankruptcy Act or a change of title by succession, operation of law or death, the Named Insured will not to transfer any legal rights or interests in the policy without the Company's written consent.

**24. BENEFIT TO BAILEE:**

This policy will not inure, directly or indirectly, to the benefit of any carrier or bailee.

**25. SUIT AGAINST THE COMPANY:**

No suit or action on this policy for the recovery of any claim will be sustainable in any court of law or equity unless the Insured will have fully complied with all the requirements of this policy. Any action or proceeding against the Company for recovery of any loss under this policy will not be barred if commenced within **(12) twelve** months after the **OCCURRENCE\*** becomes known to the Insured unless a longer period of time is provided by applicable statute.

**26. VALUATION:**

Subject to the applicable Limit, Sublimit or Aggregate Limit of liability as the case may be, the basis of adjustment of a claim at the time of loss, unless otherwise endorsed herein, shall be as follows:

- A. **Property Under Construction** – The cost to repair or replace the lost or damaged property, valued as of the time and place of loss, with material of like kind and quality, less betterment, including contractor's reasonable profit and overhead in the same proportion as that included in the original contract documents. If not so replaced, loss shall be settled on an Actual Cash Value basis with proper deduction for depreciation and exclusive of overhead and profit.
- B. **Temporary Works** – The actual cash value of the lost or damaged property valued as of the time and place of loss

- C. **Property Of Others** (including items supplied by the owner or for which the Insured is legally responsible) - The cost to repair or replace the property lost or damaged with material of like kind and quality including contractor's charges incurred prior to loss and related to such property, if any, less betterment, or the property owner's cost, whichever is less.
- D. **Plans, Blueprints, Drawings, Renderings, Specifications Or Other Contract Documents And Models** – The cost to reproduce with property of like kind and quality including the cost of gathering or assembling information from back up data if replaced. If not replaced - the value of blank material;
- E. **Trees, Shrubs, Plantings And Landscaping** - The cost to replace with property of like kind, quality and size plus the proper proportion of labor expended if such damage occurs after installation.
- F. **Property In Transit** – The Invoice cost plus accrued shipping charges less shipper's liability, if any;

**27. CANCELLATION:**

- A. This policy may be canceled by the Named Insured by mailing to the Company written notice stating when thereafter such cancellation shall be effective. This policy may be canceled by the Company by mailing to the Named Insured, at the address shown in this policy or last known address, written notice stating when, not less than **ninety (90)** days thereafter such cancellation shall be effective, except in the event of the Named Insured's non-payment of any premium due, said notice shall be **ten (10)** days. The mailing of notice as aforementioned shall be sufficient proof of notice and the effective date of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the Named Insured or by the Company shall be equivalent to mailing.
- B. In the event of cancellation, premium adjustment may be made at the time cancellation is effected and, if not then made, shall be made as soon as practicable after cancellation becomes effective. The Company's check or the check of its representative mailed or delivered as aforesaid shall be a sufficient tender of any refund of premium due to the Insured.
- C. If the Named Insured cancels, earned premium will be computed in accordance with Paragraph 11 of the Declarations plus **ten percent (10%)** short rate penalty. If the Company cancels, earned premium will be computed in accordance with Paragraph 11 of the Declarations. Any premium so computed shall always be subject to any minimum premium set forth in Paragraph 11 of the Declarations.

**28. STATUTES:**

If any Article(s) herein stated conflict with the laws or statutes of any jurisdiction within which this policy applies, such Article(s) are hereby amended to conform to said laws or statutes.

**29. TITLES OF PARAGRAPHS:**

The several titles of the various paragraphs of this policy and any endorsements attached to this policy are inserted for reference and shall not be deemed in any way to affect the provisions to which they relate.

**30. CONFLICT OF WORDING:**

The conditions contained in this policy form shall supersede those of the printed conditions to which this form is attached, wherever the same may conflict.

	<b>COMPLETED VALUE BUILDERS RISK POLICY</b> <b>SECTION D - DEFINITIONS</b>
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Wherever in this Policy a word or words appear in capitalized bold face type followed by an asterisk, the following definitions will be applied in the interpretation of such wording

1. **COASTAL WINDSTORM:**

Any named WINDSTORM\* occurring within a territory or possession of the United States, within the states of Florida and Hawaii, within 1<sup>st</sup> and 2<sup>nd</sup> tier counties, parishes or independent cities of the states of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana and Texas or within 25 miles from the mainland shoreline at mean low tide of the aforementioned 1<sup>st</sup> and 2<sup>nd</sup> tier counties, parishes or independent cities (excluding barrier islands) whichever is greater, whether originating therein or not.

2. **COMMERCIAL SERVICE:**

See OCCUPANCY\* below.

3. **CONTAMINANTS OR POLLUTANTS:**

Any material which, after its release, can cause or threaten damage to human health or human welfare or which can cause or threaten damage, deterioration, loss of value, marketability or loss of use to property insured hereunder as listed in the Federal Water Pollution Control Act, Clean Air Act, Resource Conservation and Recovery Act of 1976, and Toxic Substances Control Act, or as designated by the US Environmental Protection Agency.

3. **COST OF MAKING GOOD:**

The costs which would have been incurred to rectify any:

- A. Faulty or defective workmanship, supplies or material;
- B. Fault, defect, error, deficiency or omission in design, plan or specification;
- C. Wear and tear, gradual deterioration, inherent vice, latent defect, corrosion, rust, dampness or dryness of the atmosphere;

had such rectification been effected immediately prior to the manifestation of loss or damage.

4. **EARTHQUAKE:**

All land movement due to seismic activity, including but not limited to shocks, tremors, volcanic action, earth rising or shifting, landslide, subsidence, sinkhole, rockfall and tsunami.

5. **FLOOD:**

Except as included under EARTHQUAKE\* and WINDSTORM\*, FLOOD\* shall mean:

- A. A general and temporary condition of complete inundation of normally dry land areas, including dewatered areas, from:
  - (1) The overflow of inland or tidal waters;
  - (2) The unusual and rapid accumulation or runoff of surface waters;

(3) Mudslides (i.e. mudflows) which are caused by flooding as defined in subparagraph A(2) above and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current;

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the cyclical levels which result in flooding as defined in A(1) above.

6. **INSURED PROJECT:**

Work which the Insured is contractually obligated to perform in accordance with the contract documents being more fully described and located as set forth in the Declarations.

7. **INTERIOR WATER INTRUSION:**

INTERIOR WATER INTRUSION means loss or damage to covered property caused by, arising out of, contributed to, or resulting from rain, snow, sleet or ice, all whether wind driven or not, entering the interior of any building or structure undergoing construction or renovation without first sustaining any damage to the exterior of the building or structure and whether or not the roof and outside walls is complete\*.

8. **OCCUPANCY:**

**OCCUPANCY\*** or **COMMERCIAL SERVICE\*** shall be deemed to have occurred when the **INSURED PROJECT\*** or any portion thereof has been put to its intended use but only as respects such portion or portions put to use. The orientation or training of building management staff, the training of plant engineering and maintenance personnel, the establishment of a sales or rental office and completion of tenant fit out work shall not be considered **OCCUPANCY\*** or **COMMERCIAL SERVICE\*** on their own.

9. **OCCURRENCE:**

With the exception of the perils of **EARTHQUAKE\***, **FLOOD\***, **COASTAL WINDSTORM\***, **WINDSTORM\***, riot, riot attending a strike, civil commotion, and vandalism and malicious mischief **OCCURRENCE\*** means an accident, incident, or a series of accidents or incidents arising immediately out of a single event or originating cause and includes all resultant or concomitant losses wherever located.

In respect of the perils of **EARTHQUAKE\***, **FLOOD\***, **COASTAL WINDSTORM\***, **WINDSTORM\***, riot, riot attending a strike, civil commotion, and vandalism and malicious mischief, **OCCURRENCE\*** shall mean all losses arising during a continuous period of **seventy-two (72) hours** during the term of this policy insofar as the limit of liability, sublimit of liability, aggregate limit of liability and the deductible provisions of the policy are concerned. The Insured may elect the moment when the **seventy-two (72) hour** period begins, but no two such periods shall overlap. Such **EARTHQUAKE\***, **FLOOD\***, **COASTAL WINDSTORM\***, **WINDSTORM\***, riot, riot attending a strike, civil commotion, and vandalism and malicious mischief shall be deemed to be a single **OCCURRENCE\*** within the meaning of this policy. The Company shall not be liable for any such loss occurring before the effective date and time or occurring after the expiration date and time of this Policy; however, the Company will be liable for any loss occurring for a period, of up to **seventy-two (72) consecutive hours** after the expiration of this policy provided that the occurrence takes place prior to the date and time of the expiration of this policy.

The Company shall not be liable for any such loss occurring before the effective date and time or occurring after the expiration date and time of this Policy.

**11. SOFTWARE LOSS:**

Loss of or damage to any program, software or operating system, programming instruction or data arising out of or resulting from any failure, malfunction, deficiency, deletion, fault, **VIRUS\*** or corruption. **SOFTWARE LOSS\*** includes, but is not limited to, loss or damage resulting from any authorized or unauthorized access in, of or to any computer, communication system, file server, networking equipment, computer system, computer hardware, data processing equipment, computer memory, microchip,

microprocessor (computer chip), integrated circuit or similar device in computer equipment, any program, computer software or operating systems, programming instructions or data.

**12. TESTING:**

- A. **HOT TESTING\*** - Any startup, commissioning or other forms of **TESTING\*** making use of any feedstock or similar media including operational or performance tests.
- B. **COLD TESTING\*** - Any **TESTING\***, exclusive of **HOT TESTING\*** as defined above including but not limited to electrical, mechanical, hydraulic, hydrostatic and pneumatic.
- C. For the purposes of the foregoing definitions, startup and testing of building systems shall be considered **COLD TESTING\***.

**13. TESTING PERIOD:**

As respects **HOT TESTING\***, **TESTING PERIOD\*** shall mean that period beginning with the introduction into the insured property of feedstock, catalyst or similar media for processing and handling or the commencement of supply to a system and continuously thereafter whether or not such **HOT TESTING\***, commissioning or startup is continuous or intermittent and terminating on the expiry of the period of time as provided in Paragraph 3 of the Declarations.

**14. TOTAL CONTRACT VALUE:**

The total value of all property insured including, but not limited to, all wages, expenses, materials, supplies, equipment, existing structures (when coverage is included) and such other charges, all whether provided by the owner, contractors or others, which will become a part of or will be expended in the project plus the value, if any, of **SOFT COSTS\***, **RENTAL INCOME\*** or **GROSS EARNINGS\*** to be insured.

**15. VIRUS:**

Any software, data or code that affects the operation or functionality of any computer, communication system, file server, networking equipment, computer system, computer hardware, data processing equipment, computer memory, microchip, microprocessor (computer chip), integrated circuit or similar device in computer equipment, program, computer software or operating systems, programming instructions or data including, but not limited to, any destructive program, computer code, computer virus, worm, logic bomb, denial of service attack, smurf attack, vandalism, Trojan Horse or any other data introduced into any electronic system causing deletion, destruction, degradation, corruption, malfunction or compromise to data, software or electronic business systems.

**16. WATER DAMAGE** means physical loss or damage from leakage of liquids or fluids arising from interior building systems;

**17. WINDSTORM:**

A atmospheric disturbance accompanied by wind, rain, hail, thunderstorm, tornado or any combination of the foregoing and including any resulting flood, tidal or wave action.

## SUBSCRIPTION ATTACHMENT ENDORSEMENT

### ENDORSEMENT A

**ATTACHMENT CLAUSE:** This policy is made and accepted subject to the following provisions and stipulations, which are hereby incorporated into this Policy and understood and agreed to be a part of this Policy, together with such other provisions, stipulations, and agreements as are included in or added to this Policy.

1. Each of the Insurance Companies subscribing this policy (hereinafter referred to as the "Subscribing Companies") agrees to insure only for the respective percentage share underwritten, as shown below in the **PERCENTAGE SHARE PARTICIPATION** section, for each loss covered under this policy. The liability of each Company will be several but not joint. No Company will assume any liability above its respective percentage share of liability for any loss. The words "Subscribing Companies" is substituted for "Company" and "Insurer" wherever it appears throughout this policy.
2. The inability or failure, for any reason whatsoever, of any Subscribing Company to pay its percentage share of liability for or relating to any loss will not increase, change, or in any way affect the obligation (percentage share or otherwise) of any of the other subscribing companies. The sole right of the Insured is limited to a claim between the Insured and the defaulting Subscribing Company.
3. This Policy is written on a form reviewed and accepted by all of the Subscribing Companies, and the Insured's Broker. No liability will be assumed or assigned by virtue of the drafting of the form.
4. Any defense to a claim available to one of the Subscribing companies will be available to all of the Subscribing Companies.
5. Each Subscribing Company will be responsible for its own regulatory filings, invoicing, collection of premiums and premium refunds (if any), and payment of any regulatory fees or taxes associated with the insurance provided by the Subscribing Company under this Policy.
6. The Insured's Broker will be responsible for obtaining the signatures of the Subscribing Companies hereto, and for delivering the Policy to the Insured.
7. Any changes to the terms or conditions of this Policy must be accepted in writing by each of the Subscribing Companies and the Insured before any coverage change becomes effective.
8. Requests for changes to the policy should be directed from the Broker to all Subscribing Companies.

### SUBSCRIPTION ATTACHMENT CLAUSE

9. **NOTIFICATION ADDRESS:** All notices or communications concerning this Policy shall be addressed to the Insured at:

Insured: The Port Authority of New York and New Jersey  
225 Park Avenue South  
Treasury Risk Management 12<sup>th</sup> Floor  
New York, N.Y. 10003



ENDORSEMENT

Endorsement No.: B

Name of Insured: The Port Authority of New York and New Jersey  
225 Park Avenue South  
Treasury Risk Management 12<sup>th</sup> Floor  
New York, N.Y. 10003

TOTAL TERRORISM EXCLUSION

Notwithstanding any provision to the contrary within this Policy or any endorsement thereto, it is agreed that this Policy excludes loss, damage, cost, or expense of whatsoever nature directly or indirectly caused by, resulting from, or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purpose of this endorsement, an "act of terrorism" means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This endorsement also excludes loss, damage, cost, or expense of whatsoever nature directly or indirectly caused by, resulting from, or in connection with any action taken in controlling, preventing, suppressing, or in any way relating to any act of terrorism.

If an act of terrorism results in a fire and the direct physical loss or damage to property insured hereunder located in any State of the United States or the District of Columbia that, either pursuant to the Standard Fire Policy or otherwise, prohibits exclusions for acts of terrorism that result in fire, this Company will pay for the loss or damage caused by that fire. Such coverage for fire applies only to direct loss or damage to property insured hereunder and may be limited, in accordance with the Standard Fire Policy to the lesser of the actual cash value of the property at the time of the loss, or the amount which it would cost to repair or replace the property, without allowance for any increased cost of repair or replacement by reason of any ordinance or law, and without any compensation for business interruption, extra expense to continue business activities, or any other coverage for loss or damage other than direct physical loss or damage to the property insured hereunder.

With respect to fire resulting from any one or more "certified acts of terrorism" as defined under the Federal Terrorism Risk Insurance Act of 2002 ("TRIA") and subsequently renewed in 2005, this Company will not pay any amounts for which this Company is not responsible under the terms of that Act (including subsequent Congressional action pursuant to the Act) due to the application of TRIA Section 103 or any clause that results in a cap on our liability for payments for terrorism losses.

Nothing herein contained shall be held to vary, alter, waive, or change any of the terms, limits, or conditions of the policy, except as herein above set forth.

This endorsement is effective 4/30/07

Attached to and forming part of Policy No. 7478465 of the Lexington Insurance Company

  
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**AUTHORIZED REPRESENTATIVE**

**ENDORSEMENT No. 002**

This endorsement, effective 12:01 AM August 1, 2011:

Forms a part of policy no. 7478465

Issued to: The Port Authority of New York & New Jersey

By: Lexington Insurance Company

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In consideration of the additional premium outlined below, it is agreed that the above policy is amended as follows:

**3. TERM OF INSURANCE:** is modified as follows:

This Policy shall be effective on April 30, 2007 and shall continue in full force and effect until the expiration date of August 31, 2013 both at 12:01 A.M. standard time at the location of the INSURED PROJECT. Notwithstanding the foregoing scheduled period of coverage for each INSURED PROJECT is:

Project 1: **Tower One/World Trade Center** (formerly known as the Freedom Tower):

Original Project Effective Date: April 30, 2007 to December 31, 2011  
Term of Extension: December 31, 2011 to August 31, 2013

Project 2: **National 9/11 Memorial** (formerly known as the WTC Memorial Complex):

Original Effective Date: April 30, 2007 to August 1, 2011  
Term of Extension: August 1, 2011 to December 31, 2012

**9 C. PREMIUM ADJUSTMENTS:**

The rates used for the purpose of calculating the **extension** premium and the **final** earned premium, unless otherwise endorsed hereto, are revised to:

**PRIMARY \$500mm Layer**

Exposure	Term of Policy Extension	Revised Agreed Annual Rate	Additional Premium
Tower One/WTC	1.6685 years	0.08840910185 /\$100	\$2,655,191
National 9/11 Memorial	1.4192 years	0.1255524408 /\$100	\$912,302
<b>Total Additional Premium</b>			<b>\$3,567,493</b>

Lexington Insurance Company's Participation: **27.00%**  
Tower One/WTC Extension premium due for share: **\$716,901**  
National 9/11 Memorial Extension premium due for share: **\$246,322**

**Total Additional Premium Due \$963,223**

**ENDORSEMENT No. 002**

**This endorsement, effective 12:01 AM August 1, 2011:**

**Forms a part of policy no. 7478465**

**Issued to: The Port Authority of New York & New Jersey**

**By: Lexington Insurance Company**

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Premium payment for the following extensions only shall be due as follows:

- September 1, 2011 (being within 30 days of extension date of August 1, 2011 for the National 911 Memorial.
- January 31, 2012 (being within 30 days of extension of December 31, 2011 for Tower One/WTC).

It is further hereby understood and agreed that the policy is subject to further premium adjustment based on final project values reported upon project completion, subject to the revised rates above and as further addressed in Section 9. of the policy.

*All other terms and conditions of the policy remain unchanged and as per original Builders Risk form (i.e. Hard costs only - soft costs excluded)*

  
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Authorized Representative