

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY

Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

Appellate Case No: 2021-000494

South Carolina Farm Bureau Ins. Co, Appellant
v.

Marion L. Driggers, Shiralee Driggers, Tammy D.
Floyd, Estate of Arthur McKenzie, The Travelers
Home and Marine Insurance Company, The
United States of America acting by and through
Its agency, The Internal Revenue Service, and
The South Carolina Tax Commission, Defendants,

Of Which The Travelers Home and Marine Insurance
Company is the Respondent.

RECORD ON APPEAL

Volume II

J. Dwight Hudson
Hudson & Graham
PO Box 70218
Myrtle Beach, SC 29572
(843) 692-9889
HUDSONLAW@HUDSONLAWOFFICE.COM
ATTORNEY FOR APPELLANT

Mariel D. Norton
Baker Ravenel & Bender, LLP
PO Box 8057
Columbia, SC 29204
(803) 343-3870
MNORTON@BRBLEGAL.COM
ATTORNEY FOR RESPONDENT

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG	)	CASE NO. 2014-CP-45-132
South Carolina Farm Bureau	)	
Mutual Insurance Company,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	DEFENDANT MCKENZIE'S
	)	ANSWER TO DRIGGERS AND
	)	FLOYD'S AMENDED CROSSCLAIMS
Marion L. Driggers, Shiralee Driggers,	)	AND MCKENZIE'S AMENDED CROSS-
Tammy D. Floyd, Arthur McKenzie,	)	COUNTERCLAIMS AGAINST
a/k/a Auther McKenzie, The Travelers	)	DRIGGERS AND FLOYD
	)	AND THIRD-PARTY COMPLAINT
Home and Marine Insurance	)	[jury trial demanded for Crossclaims]
Company, the United States of	)	
American acting by and through its	)	
agency, The Internal Revenue Service	)	1. Breach of Contract
and The South Carolina Tax	)	2. Civil Conspiracy
Commission,	)	3. Breach of Fiduciary Duties
	)	4. Negligence
Defendants.	)	[jury trial demanded for Nos. 1 - 4]
	)	
Arthur McKenzie, a/k/a Auther McKenzie,	)	5. Unjust Enrichment
	)	6. Accounting
Third-Party Plaintiff,	)	7. Foreclosure
	)	8. Declaratory Judgment
v.	)	(Cloud on Title)
	)	[non-jury trial demanded for Nos. 5 - 8]
Alice Peterson,	)	
	)	
Third-Party Defendant.	)	
	)	

Defendant/Counter-Defendant/Third-Party Plaintiff Arthur McKenzie a/k/a Auther McKenzie ("Auther McKenzie"), responding to the Amended Crossclaims of Defendants/Cross-Claimants Marion L. Driggers ("Marion Driggers"), Shiralee Driggers, and Tammy D. Floyd ("Tammy Floyd") and asserting Amended Cross-Counterclaims

against them and a Third-Party Complaint against Alice Peterson, would respectfully allege and show unto the Court as follows:

FOR A FIRST DEFENSE

1. Auther McKenzie asserts the Amended Cross-Claims of Marion Driggers, Shiralee Driggers, and Tammy Floyd fail to state sufficient facts upon which relief may be granted; and, accordingly, he respectfully petitions the Court to dismiss the Amended Cross-Claims against him.

FOR A SECOND DEFENSE

2. Auther McKenzie denies each and every allegation contained within the Amended Cross-Claims of Marion Driggers, Shiralee Driggers, and Tammy Floyd not hereinafter specifically admitted, qualified, or explained and demands strict proof thereof.

FOR A THIRD DEFENSE
(Unclean Hands Doctrine)

3. Due to the inequitable and wrongful conduct of Marion Driggers, Shiralee Driggers, and Tammy Floyd as alleged herein, each and all of them ought to be absolutely barred from attaining any equitable relief under the South Carolina Unclean Hands Doctrine.

FOR A FOURTH DEFENSE

4. Auther McKenzie denies allegations under PARAGRAPHS NINETY-ONE (91) through ONE HUNDRED TWO (102) and ONE HUNDRED FOUR (104) through ONE HUNDRED EIGHT (108); and he demands strict proof thereof.

5. With respect to PARAGRAPH ONE HUNDRED THREE (103), Auther McKenzie is unsure of his federal and state tax lien status; and, therefore, he would respectfully deny the allegations and demand strict proof thereof.

FOR A FIRST CROSS-COUNTERCLAIM
(Breaches of Contract accompanied by Fraudulent Acts
against Tammy Floyd and the Driggers)

6. Auther McKenzie reavers each and every allegation above as if repeated verbatim herein; and he would further allege as follows:

7. On or about April 25, 1997, Liza Gamble ("Gamble") and Tammy Floyd entered into a Contract of Sale commonly called an Installment Sales Contract ("Purchase Agreement") involving approximately four (4) acres of land and a large brick house (jointly "Property" hereinafter") located at 200 West Highway 378 Bypass in Lake City, South Carolina. See copy of Purchase Agreement attached hereto as Exhibit A. Marion Driggers and Shiralee Driggers (the "Driggers" hereinafter) instructed Auther McKenzie to make the payments under the Purchase Agreement to them rather than to Tammy Floyd.

8. Tammy Floyd is the adult daughter of the Driggers. Auther McKenzie is informed and believes that the Driggers use Tammy Floyd as a "straw man" involving their purchases of several rental and installment sales contract properties.

9. On or about October 13, 2006, Lisa Gamble assigned the Purchase Agreement to Auther McKenzie. See copy of Assignment attached hereto as Exhibit B. During a period of approximately thirteen (13) years from on or about April 25, 1997, through at least April of 2010, Auther McKenzie believes that he paid Tammy Floyd and

the Driggers more than the original sales price of \$80,000 under the Purchase Agreement.

10. Under South Carolina law, a person (such as Auther McKenzie) who has made payments of several thousands of dollars to an owner of real estate (like Tammy Floyd and the Driggers) for several years under an installment sales contract (like the Purchase Agreement) has at least an “equitable ownership interest” in the real estate. As a result of the Assignment and thousands of dollars in payments which Auther McKenzie made to Tammy Floyd and the Driggers under the Purchase Agreement, Auther McKenzie attained an equitable ownership interest in the Property.

11. As a person holding an equitable interest in the Property, Tammy Floyd and the Driggers owed Auther McKenzie statutory rights associated with foreclosure laws, such as the right to properly receive a timely “notice to cure,” the “right of redemption,” and the right to receive excess proceeds or equity arising from a foreclosure action involving the Property.

12. For example, in the event of a default under the Purchase Agreement, Tammy Floyd and the Driggers owed Auther McKenzie an obligation under South Carolina law to properly serve him with an adequate and timely written “notice to cure.” Tammy Floyd and the Driggers violated Auther McKenzie’s statutory rights by failing to properly serve Auther McKenzie with an adequate written “notice to cure” at the appropriate time in this matter.

13. In addition, if Tammy Floyd and the Driggers would have satisfied their legal obligation to properly serve Auther McKenzie with an adequate written “notice to cure” at the appropriate time in this matter; and, if Auther McKenzie would have failed to

timely satisfy the proper amount which Tammy Floyd and the Driggers proved was owed for any delinquent monthly payment due under the Purchase Agreement, Tammy Floyd and the Driggers would have been required under South Carolina law to seek formal judicial foreclosure of the Property securing the Purchase Agreement.

14. Tammy Floyd and the Driggers failed to institute formal foreclosure proceedings against Auther McKenzie and have instead unilaterally taken possession and control of the Property to Auther McKenzie's detriment. Tammy Floyd and the Driggers have violated Auther McKenzie's equitable ownership interests in the Property.

15. Within the normal formal foreclosure process, Tammy Floyd and the Driggers would have owed Auther McKenzie an obligation under South Carolina law to provide him with a "right of redemption" affording him an opportunity to acquire sole ownership of Property by satisfying the proper amount due under the Purchase Agreement. Tammy Floyd and the Driggers failed to honor Auther McKenzie's statutory "right of redemption."

16. Moreover, if Auther McKenzie would have failed to assert and perfect his "right of redemption," Tammy Floyd and the Driggers would have been required under South Carolina law to sell the Property at a judicial foreclosure sale after proper notification to Auther McKenzie and the public. If the Property sold at the foreclosure sale for less than the total amount that Tammy Floyd and the Driggers proved Auther McKenzie owed under the Purchase Agreement, Auther McKenzie would have been subjected to a deficiency judgment filed against him in such an amount. On the other hand, if the Property sold at the foreclosure sale for more than the total amount that

Tammy Floyd and the Driggers proved Auther McKenzie owed under the Purchase Agreement, Auther McKenzie would be entitled to receive the excess sales proceeds.

17. If Tammy Floyd and the Driggers assert that Auther McKenzie owes them anything further under the Purchase Agreement, Tammy Floyd and the Driggers bear the burden of proving the amount Auther McKenzie owes them.

18. Auther McKenzie quit school to work on the family farm before ever attending high school; and he has very limited reading, writing, and arithmetic skills. Shiralee Driggers has been a federal and state tax preparer and a bookkeeper for individuals and businesses for more than thirty (30) years. In fact, Shiralee Driggers prepared Auther McKenzie's federal and state income tax returns; she provided comprehensive bookkeeping services for his business operations; and she actually controlled and had possession of Auther McKenzie's checkbook for at least ten (10) years or more. Auther McKenzie reposed special trust and confidence in Shiralee Driggers to handle his personal and business financial matters, including making payments to his employees, suppliers, banks, federal and state taxing entities, and others.

19. Shiralee Driggers knew that Auther McKenzie was incapable of keeping an accurate and proper accounting of his payments made to Tammy Floyd and the Driggers under the Purchase Agreement. In fact, Auther McKenzie expected Shiralee Driggers to keep an accurate and proper accounting of all the payments he made to Tammy Floyd and the Driggers under the Purchase Agreement. Shiralee Driggers accepted the obligation to keep an accurate accounting of Auther McKenzie's Purchase Agreement payments for him.

20. Shiralee Driggers owed Auther McKenzie a fiduciary obligation and a professional duty to keep an accurate accounting of the payments that he made to Tammy Floyd and the Driggers under the Purchase Agreement. Due to negligence or intentional misconduct, Shiralee Driggers failed to properly account for the payments Auther McKenzie made to Tammy Floyd and the Driggers under the Purchase Agreement.

Auther McKenzie's Payment Schedule

21. No one knew Auther McKenzie's financial situation better than Shiralee Driggers. Shiralee Driggers knew that Auther McKenzie had no guaranteed steady monthly income, but he would historically receive relatively large sums of money or draws upon completion of certain portions of his masonry contracts. Although the Purchase Agreement states that monthly payment would be \$694.81, Tammy Floyd and the Driggers allowed Auther McKenzie to make sometimes sporadic payments of \$700.00, multiples of \$700.00, or even several thousands of dollars without objection.

The SCDOT Lump Sum Agreement

22. Sometimes Auther McKenzie would make lump sum payments covering several months under the Purchase Agreement. For example, on or about July 3, 2007, Auther McKenzie and the Driggers reached a verbal agreement under which Auther McKenzie gave Tammy Floyd and the Driggers a \$42,000.00 lump sum payment ("Lump Sum Payment") which he received for transferring to the South Carolina Department of Public Safety ("SCDOT") a portion of the Property he was buying under the Purchase Agreement. In exchange for the SCDOT Lump Sum Payment, Tammy Floyd and the Driggers agreed that Auther McKenzie would receive a \$42,000.00 advance credit under

the Purchase Agreement that would satisfy the next five (5) years or sixty (60) months of \$700.00 monthly payments. Accordingly, Auther McKenzie paid in advance his monthly payment obligation under the Purchase Agreement from July of 2007 until August of 2012.

23. Tammy Floyd and the Driggers were supposed to grant Auther McKenzie a five (5) year or sixty (60) month advance credit towards future monthly payments due under the Purchase Agreement. Although Auther McKenzie was not obligated to do so, he continued to make periodic monthly payments and sometimes lump sum payments of thousands of dollars to Tammy Floyd and the Driggers after July 3, 2007, in an effort to expedite satisfaction of the remaining amount due under the Purchase Agreement.

24. Shiralee Driggers, individually and on behalf of Tammy Floyd and the Driggers, failed to properly account for thousands of dollars in cash payments Auther McKenzie made to them after July 3, 2007, Lump Sum Payment.

25. Tammy Floyd and the Driggers breached the Purchase Agreement and the Lump Sum Payment verbal agreement by failing to properly apply Auther McKenzie's \$42,000.00 payment towards sixty (60) future monthly payments under the Purchase Agreement. Auther McKenzie believes and alleges that the Driggers encouraged, aided, and abetted Tammy Floyd in breaching the Lump Sum Payment agreement.

The November 26, 2009, House Fire

26. On or about November 26, 2009, there was a fire which substantially destroyed almost all of Auther McKenzie's personal possessions and the house which he was buying under the Purchase Agreement. For several years before the fire, Auther

McKenzie had purchased insurance coverage in his sole name on the house from The Travelers Home and Marine Insurance Company ("Travelers"). Under the Purchase Agreement, Auther McKenzie was initially required to purchase at least \$80,000.00 in insurance coverage on the house with Tammy Floyd as a named "payee." However, Shiralee Driggers knew that Auther McKenzie had troubles handling financial matters and making timely payments. Tammy Floyd and the Driggers decided to purchase their own insurance on the house from South Carolina Farm Bureau Insurance ("SCFB"). Shiralee Driggers added the SCFB insurance premium amounts to Auther McKenzie's account as a means to satisfy his insurance coverage obligation under the Purchase Agreement.

27. Shiralee Driggers has testified under oath that the purpose of the insurance provision in the Purchase Agreement was to secure just the balance Auther McKenzie owed under the note in the event of fire damage or other covered destruction to the house.

28. Due to Auther McKenzie's earlier \$42,000.00 Lump Sum Payment and thousands of dollars in additional periodic payments after July 3, 2007, Auther McKenzie was several years ahead in making his monthly payments under the Purchase Agreement at the time of the November 26, 2009, fire.

29. The fire damage made the house uninhabitable. The fire was the only reason Auther McKenzie could no longer live in the house. Tammy Floyd and the Driggers knew that Auther McKenzie made an insurance claim against Travelers and anticipated that he would receive sufficient funds to repair the house. Auther McKenzie has never voluntarily abandoned the house.

30. In the midst of Auther McKenzie's claims adjustment process with Travelers after March 6, 2013, he learned that Tammy Floyd and the Driggers had previously filed a Magistrate's Court eviction action against him and attained an "Order of Ejectment" dated March 6, 2013. The Magistrate's Court documents contained false allegations that (a) Auther McKenzie had nothing more than a "rental" agreement involving the Property; (b) he was delinquent in making "rent" payments; and (c) he had voluntarily "abandoned" the Property.

31. Auther McKenzie believes and alleges that Tammy Floyd and the Driggers failed to inform the Magistrate's Court about one (1) or more of the following particulars:

- (a) Auther McKenzie owned an equitable interest in the Property;
- (b) Auther McKenzie was entitled to receive proper service of an adequate and timely written "notice to cure" prior to the Magistrate's Court hearing which he never received from Tammy Floyd and the Driggers or anyone else;
- (c) Tammy Floyd and the Driggers failed to institute a foreclosure action against Auther McKenzie to which he was entitled under South Carolina law;
- (d) Auther McKenzie had paid Tammy Floyd and the Driggers the \$42,000.00 Lump Sum Payment constituting sixty (60) months of advance monthly payments and thousands of dollars in additional payments satisfying his payment obligation arising under the Purchase Agreement well beyond the March 6, 2013, date of the Order of Ejectment;
- (e) Auther McKenzie was not living in the house due to November 26, 2009, fire damage and never voluntarily "abandoned" the Property; and
- (f) Tammy Floyd and the Driggers had SCFB fire insurance coverage sufficient to satisfy the amount Auther McKenzie owed them under

the Purchase Agreement entitling him to a fee simple title to the Property.

32. Auther McKenzie believes and alleges that Tammy Floyd and the Driggers have either sold the Property or entered into negotiations to do so with another person in violation of his rights under the Purchase Agreement and South Carolina law.

Breaches of the Purchase Agreement and Lump Sum Payment Agreement

33. Tammy Floyd and the Driggers violated the Purchase Agreement and the Lump Sum Payment Agreement in one (1) or more of the following particulars:

- (a) by failing to account for Auther McKenzie's payments,
- (b) by making false and incomplete statements to the Magistrate's Court and prompting the Order of Ejectment,
- (c) by failing to honor Auther McKenzie's equitable interest in the Property,
- (d) by failing to honor Auther McKenzie's statutory rights to an adequate and timely "notice to cure" and his "right of redemption,"
- (e) by failing to honor Auther McKenzie's right to enjoy his possession of the Property,
- (f) by violating Auther McKenzie's foreclosure rights, and
- (g) by selling or attempting to sell the Property to another person while ignoring Auther McKenzie's equitable interest and causing a cloud on the title involving the Property.

34. Under the circumstances, Tammy Floyd and the Driggers share a joint responsibility to compensate Auther McKenzie for his damages arising from their breaches of contract in this matter.

Breaches of the Agreements' Implied Covenants of Good Faith and Fair-Dealing

35. Contained within every contract under South Carolina law are implied covenants of good faith and fair-dealing. Tammy Floyd and the Driggers breached the implied covenants of good faith and fair-dealing owed to Auther McKenzie under the Purchase Agreement and Lump Sum Payment Agreement in one (1) or more of the following particulars:

- (a) Tammy Floyd and the Driggers, in a self-serving and deceptive manner, took advantage of the special trust and confidence which Auther McKenzie placed in Shiralee Driggers that she would maintain an accurate and proper accounting of the payments he made under the Purchase Agreement and Lump Sum Payment Agreement;
- (b) Tammy Floyd and the Driggers, in a self-serving and deceptive manner, took advantage of Auther McKenzie's lack of education and limited abilities to read, write, and handle his financial affairs;
- (c) Tammy Floyd and the Driggers, in a self-serving and deceptive manner, failed to give Auther McKenzie full credit for all of the payments he made to them under the Purchase Agreement and Lump Sum Payment Agreement;
- (d) Tammy Floyd and the Driggers, in a self-serving and deceptive manner, persuaded Auther McKenzie to pay Tammy Floyd and the Driggers the \$42,000.00 Lump Sum Payment from the SCDOT transaction and failed to grant him a five (5) year or sixty (60) month advance credit on future payments arising under the Purchase Agreement;
- (e) Tammy Floyd and the Driggers, in a self-serving and deceptive manner, failed to inform the Magistrate's Court that Auther McKenzie's payments were current and even paid in advance for a couple more years at the time of the ejectment proceeding;
- (f) Tammy Floyd and the Driggers, in a self-serving and deceptive manner, failed to inform the Magistrate's Court that Auther McKenzie had an equitable interest in the Property under South Carolina law at the time of the ejectment proceeding;

- (g) Tammy Floyd and the Driggers, in a self-serving and deceptive manner, failed to inform the Magistrate's Court that Auther McKenzie only left the house due to a fire rendering it uninhabitable;
- (h) Tammy Floyd and the Driggers, in a self-serving and deceptive manner, falsely informed the Magistrate's Court that Auther McKenzie had "abandoned" the Property;
- (i) Tammy Floyd and the Driggers, in a self-serving and deceptive manner, totally ignored Auther McKenzie's statutory rights and interests; and
- (j) Tammy Floyd and the Driggers, in a self-serving and deceptive manner, committed other misconduct against Auther McKenzie mentioned herein, all of which violate basic notions of good faith and fair-dealing.

36. As a proximate result and consequence of the breaches of contract committed by Tammy Floyd and the Driggers, Auther McKenzie has incurred and will continue to suffer from substantially financial harms and damages.

Fraudulent Acts accompanying the Breaches of Contract

37. The breaches of contract committed by Tammy Floyd and the Driggers were accompanied by one (1) or more unfair, unjust, or dishonest acts as follows:

- (a) Tammy Floyd and the Driggers provided Auther McKenzie with an inaccurate accounting of his payments under the Purchase Agreement and Lump Sum Payment Agreement in an effort to conceal their misconduct;
- (b) Tammy Floyd and the Driggers failed to give Auther McKenzie credit for thousands of dollars of payments he made under the Purchase Agreement;
- (c) Tammy Floyd and the Driggers made false, incomplete, and deceptive statements to the Magistrate's Court in attaining an "Order of Ejectment" against Auther McKenzie;

- (d) Tammy Floyd and the Driggers tricked Auther McKenzie into giving them the \$42,000.00 Lump Sum Payment involving the SCDOT property transfer transaction by using false promises that he would receive a five (5) year or sixty (60) month payment credit under the Purchase Agreement and Lump Sum Payment Agreement;
- (e) Tammy Floyd and Driggers took advantage of the special trust and confidence Auther McKenzie reposed in Shiralee Driggers;
- (f) Tammy Floyd and the Driggers took advantage of Auther McKenzie's lack of education and limited abilities to read, write, and handle his financial affairs; and
- (g) Tammy Floyd and the Driggers wrongfully took possession of the Property and either sold or attempted to sell it to someone else in violation of the Purchase Agreement and Auther McKenzie's legal rights.

38. Tammy Floyd and the Driggers have committed breaches of contract accompanied by a fraudulent act with fraudulent intent involving the Purchase Agreement and the Lump Sum Payment Agreement. Accordingly, Auther McKenzie is entitled to an award of reasonable punitive damages in this matter.

WHEREFORE, Arthur McKenzie a/k/a Auther McKenzie, responding to the Amended Crossclaims of Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd and asserting this Amended Counter-Crossclaim against them, would respectfully petition the Court to dismiss the Amended Crossclaims against him and enter judgment in his favor against Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd, jointly and severally, for actual damages proved at trial; award him an additional sum of punitive damages; and grant him other and further relief as the Court deems just and proper.

FOR A SECOND CROSS-COUNTERCLAIM
(Civil Conspiracy against Tammy Floyd and the Driggers)

39. Auther McKenzie reavers each and every allegation above as if repeated verbatim herein; and he would further allege as follows:

40. Auther McKenzie believes that Tammy Floyd and the Driggers engaged in a civil conspiracy to cheat and take advantage of him involving his efforts to purchase the Property in one (1) or more of the following particulars:

- (a) by tricking Auther McKenzie to make the \$42,000 Lump Sum Payment to them involving the SCDOT transaction for which he never received proper credit in an effort to wrongfully take the Property and equity in the Property from him,
- (b) by intentionally creating false and confusing accounting records which indicate that Auther McKenzie owed more money than due under the Purchase Agreement in an effort to wrongfully take the Property and equity in the Property from him,
- (c) by selling or attempting to sell the Property to another person without honoring Auther McKenzie's equitable interest in the Property,
- (d) by using false, incomplete, and/or deceptive statements to the Magistrate's Court in an effort to wrongfully take the Property and equity in the Property from Auther McKenzie,
- (e) by recklessly or intentionally violating Auther McKenzie's (i) right to receive a properly served, adequate, and timely "notice to cure," (ii) right to redemption, (iii) right to a standard foreclosure process, and (iv) right to receive excess foreclosure proceeds after satisfaction of any sum rightfully owed under the Purchase Agreement, all in an effort to wrongfully take the Property and equity in the Property from him,
- (f) by purchasing insurance coverage on the house and charging Auther McKenzie for the annual premiums while refusing to grant him credit for any insurance proceeds Floyd and the Driggers receive from such insurance coverage to satisfy the actual balance owed under the Purchase Agreement, all in an effort to wrongfully take the Property and equity in the Property from him, and

- (g) by misusing the insurance provision in the Purchase Agreement as a means to collect the amount owed by Auther McKenzie to satisfy the note while asserting sole ownership of the Property to the exclusion of Auther McKenzie despite insurance coverage to satisfy the note, all in an effort to wrongfully take the Property and equity in the Property from him.

41. As a proximate result and consequence of the civil conspiracy committed by Tammy Floyd and the Driggers against Auther McKenzie, Auther McKenzie has incurred and will continue to suffer from substantial special financial and emotional harms and damages, including, but not limited to, the following: (a) his loss of the Property, (b) his loss of equity in the Property, (c) his loss of use and enjoyment of the Property for several years, (c) his loss of a place to live rendering him homeless for several years, and (d) his severe emotional distress, embarrassment, humiliation, anxiety, and other emotional harms and damages.

42. Auther McKenzie is informed and believes that Tammy Floyd and the Driggers committed civil conspiracy against him in an intentional, wanton, grossly neglect, or reckless manner in total disregard for his individual rights and property interests. Accordingly, Auther McKenzie is entitled to a reasonable sum of punitive damages in this matter.

WHEREFORE, Arthur McKenzie a/k/a Auther McKenzie, responding to the Amended Crossclaims of Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd and asserting this Amended Counter-Crossclaim against them, would respectfully petition the Court to dismiss the Amended Crossclaims against him and enter judgment in his favor against Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd, jointly and

severally, for actual damages proved at trial; award him an additional sum of punitive damages; and grant him other and further relief as the Court deems just and proper.

FOR A THIRD CROSS-COUNTERCLAIM

(Breaches of Fiduciary Duties against Tammy Floyd and the Driggers)

43. Auther McKenzie reavers each and every allegation above as if repeated verbatim herein; and he would further allege as follows:

44. Shiralee Driggers prepared Auther McKenzie's federal and state income tax returns, she provided comprehensive bookkeeping services for his business operations, and she actually controlled and had possession of Auther McKenzie's checkbook for at least ten (10) years or more. Auther McKenzie reposed special trust and confidence in Shiralee Driggers to handle his personal and business financial matters, including making payments to his employees, suppliers, banks, federal and state taxing entities, and others.

45. In accordance with averments under PARAGRAPHS SEVENTEEN (17), EIGHTEEN (18), NINETEEN (19), and TWENTY (20) above and other averments herein, Shirley Driggers owed Auther McKenzie fiduciary duties of loyalty, honesty, avoidance of conflicts-of-interest, good faith and fair-dealing, and competence involving the proper accounting of his payments made to Tammy Floyd and the Driggers under the Purchase Agreement and Lump Sum Payment Agreement.

46. Shiralee Driggers breached the fiduciary duties she owed Auther McKenzie in one (1) or more of the following particulars:

- (a) by taking advantage of the special trust which Auther McKenzie placed in her to maintain an accurate and proper accounting of the payments he made to Tammy Floyd and the Driggers under the Purchase Agreement and Lump Sum Payment Agreement;

- (b) by failing to give Auther McKenzie full credit for all of the payments he made to Tammy Floyd and the Driggers under the Purchase Agreement and Lump Sum Payment Agreement;
- (c) by deceptively persuading Auther McKenzie to pay Tammy Floyd and the Driggers the \$42,000.00 Lump Sum Payment from the SCDOT transaction with a false promise to grant him a five (5) year or sixty (60) month advance credit on future payments arising under the Purchase Agreement;
- (d) by failing to inform the Magistrate's Court that Auther McKenzie's payments were current and even paid in advance for a couple more years at the time of the ejectment proceeding;
- (e) by failing to inform the Magistrate's Court that Auther McKenzie had an equitable interest in the Property under South Carolina law at the time of the eviction proceeding;
- (f) by failing to inform the Magistrate's Court that Auther McKenzie only left the house due to a fire rendering it uninhabitable;
- (g) by falsely informing the Magistrate's Court that McKenzie had "abandoned" the land and House;
- (h) by failing to honor McKenzie's equitable rights in the land and House;
- (i) by failing to avoid an inherent conflict of interest while accounting for the payments which Auther McKenzie made under the Purchase Agreement and Lump Sum Payment Agreement; and
- (j) by committing all of the other misconduct indicated herein which violates the fiduciary duties Shirley Driggers owed to Auther McKenzie in this matter.

47. As a proximate result and consequence of Shiralee Driggers' breaches of fiduciary duties she owed Auther McKenzie, Auther McKenzie has incurred and will continue to suffer from substantial financial and emotional harms and damages.

48. Due to Shiralee Driggers' intentional, grossly negligent, reckless, or wanton misconduct in total disregard for Auther McKenzie's rights, Auther McKenzie is entitled to a reasonable sum of punitive damages in this matter.

49. Auther McKenzie believes and alleges that Marion Driggers and Tammy Floyd aided, abetted, or encouraged Shiralee Driggers to breach her fiduciary obligations owed to Auther McKenzie in a self-serving and wrongful manner. Accordingly, Tammy Floyd and the Driggers are jointly responsible for Auther McKenzie's damages arising from Shiralee Driggers' breaches of fiduciary duties.

WHEREFORE, Arthur McKenzie a/k/a Auther McKenzie, responding to the Amended Crossclaims of Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd and asserting his Amended Cross-Counterclaim against them, would respectfully petition the Court to dismiss the Amended Crossclaims against him and enter judgment in his favor against Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd, jointly and severally, for actual damages proved at trial; award him an additional sum of punitive damages; and grant him other and further relief as the Court deems just and proper.

FOR A FOURTH CROSS-COUNTERCLAIM
(Professional Negligence against Tammy Floyd and the Driggers)

50. Auther McKenzie reavers each and every allegation above as if repeated verbatim herein; and he would further allege as follows:

51. Shiralee Driggers holds herself out to the public as a professional federal and state tax preparer and a business bookkeeper. As a professional bookkeeper, Shiralee

Driggers owes her clients professional duties of competency, accuracy, honesty, loyalty, good faith, and fair-dealing.

52. Shiralee Driggers was negligent in failing to provide Auther McKenzie with professional services that were competent, accurate, honest, loyal, or in a good faith and fair-dealing manner.

53. Given the long-term professional relationship between Auther McKenzie and Shiralee Driggers, he trusted her to properly account for all of the payments he made to Tammy Floyd and the Driggers under the Purchase Agreement and Lump Sum Agreement.

54. Shiralee Driggers accepted the obligation to account to Auther McKenzie for his payments made under the Purchase Agreement and Lump Sum Agreement. Shiralee Driggers was negligent in one (1) or more of the following particulars:

- (a) In a negligent manner, Shiralee Driggers failed to properly account for all of the payments Auther McKenzie made to Tammy Floyd and the Driggers under the Purchase Agreement;
- (b) In a negligent manner, Shiralee Driggers failed to properly account for the SCDOT Lump Sum Payment that Auther McKenzie made to Tammy Floyd and the Driggers;
- (c) In a negligent manner, Shiralee Driggers failed to provide Auther McKenzie with an annual accounting of all the payments he made to Tammy Floyd and the Driggers under the Purchase Agreement and Lump Sum Agreement;
- (d) In a negligent manner, Shiralee Driggers provided Auther McKenzie with a false, inaccurate, deceptive, and self-serving "verified" accounting of Auther McKenzie's payments made to Tammy Floyd and the Driggers under the Purchase Agreement and Lump Sum Agreement; and

- (e) In a negligent manner, Shiralee Driggers failed to properly supervise her staff and others and failed to account for all of the payments Auther McKenzie made to Tammy Floyd and the Driggers under the Purchase Agreement.

55. As a proximate result and consequence of Shiralee Driggers' negligence, Auther McKenzie has incurred and will continue to suffer from substantial financial and emotional harms and damages.

56. Due to Shiralee Driggers' intentional, grossly negligent, reckless, or wanton misconduct in total disregard for Auther McKenzie's rights, Auther McKenzie is entitled to a reasonable sum of punitive damages in this matter.

57. Auther McKenzie believes and alleges that Marion Driggers and Tammy Floyd aided, abetted, or encouraged Shiralee Driggers to breach her professional obligations owed to Auther McKenzie in a self-serving and wrongful manner. Accordingly, Tammy Floyd and the Driggers are jointly responsible for Auther McKenzie's damages arising from Shiralee Driggers' negligence.

WHEREFORE, Arthur McKenzie a/k/a Auther McKenzie, responding to the Amended Crossclaims of Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd and asserting his Amended Counter-Crossclaim against them, would respectfully petition the Court to dismiss the Amended Crossclaims against him; enter judgment in his favor against Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd, jointly and severally, for actual damages proved at trial; award him an additional sum of punitive damages against Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd; and grant him other and further relief as the Court deems just and proper.

FOR A FIFTH CROSS-COUNTERCLAIM
(Unjust Enrichment against Tammy Floyd and the Driggers)

58. Auther McKenzie reavers each and every allegation above as if repeated verbatim herein; and he would further allege as follows:

59. The sole purpose of the insurance provision in the Purchase Agreement was to provide insurance funds to satisfy the balance on Auther McKenzie's note if the house was damaged or destroyed due to a fire or another insurable event.

60. Shiralee Driggers knew, given her more than ten (10) years in preparing Auther McKenzie's federal and state income tax filings, handling his bookkeeping, and possessing and controlling his checkbook, that Auther McKenzie would not be capable of honoring the insurance provision in the Purchase Agreement without her help. Accordingly, Tammy Floyd and the Driggers decided (a) to purchase insurance coverage for the house from South Carolina Farm Bureau Insurance Company ("SCFB") in their individual names to fully secure Auther McKenzie's note under the Purchase Agreement, and (b) to add the cost of SCFB's annual premiums to Auther McKenzie's note balance as a means to satisfy his insurance obligation owed to Tammy Floyd and the Driggers under the Purchase Agreement.

61. Tammy Floyd and the Driggers filed a claim against SCFB seeking compensation for the damages to the house caused by the November 26, 2009, fire. Auther McKenzie is informed and believes that Tammy Floyd and the Driggers are claiming that SCFB owes them more than the actual amount that he rightfully owes to satisfy the note under the Purchase Agreement. Accordingly, if Floyd and the Driggers

are successful with their SCFB insurance claim and receive a payment in an amount exceeding the accurate balance of Auther McKenzie's note, Auther McKenzie is entitled to the excess amount. Moreover, if Tammy Floyd and the Driggers receive any insurance proceeds from the fire, Auther McKenzie is entitled to a credit deducted from any amount that he actually owes them under the Purchase Agreement.

62. If SCFB pays Tammy Floyd and the Driggers an amount sufficient to satisfy Auther McKenzie's note under the Purchase Agreement (including the actual cost of purchasing \$80,000.00 in insurance coverage from SCFB which Tammy Floyd and the Driggers added onto Auther McKenzie's note), Auther McKenzie would have no additional financial obligation under the Purchase Agreement and the Property would belong to Auther McKenzie free and clear of any lien asserted by Tammy Floyd and the Driggers.

63. In addition, since Tammy Floyd and the Driggers chose to purchase SCFB insurance coverage in their individual names at Auther McKenzie's expense, Tammy Floyd and the Driggers have no legitimate claim to any proceeds he might receive from Travelers under his individual insurance policy.

64. Under the circumstances, if Tammy Floyd and the Driggers were to receive any insurance proceeds (including an amount more than an accurate accounting of Auther McKenzie's note balance under the Purchase Agreement at the time of the fire or any amount without giving Auther McKenzie a credit deducted from the note balance that he actually owes under the Purchase Agreement), the insurance proceeds would constitute an "Unjust Enrichment."

65. Accordingly, Auther McKenzie petitions the Court to require Tammy Floyd and the Driggers to prove the amount Auther McKenzie owed to them at the time of the fire and require them to pay Auther McKenzie all insurance proceeds paid to them which exceeds Auther McKenzie's actual note balance under the Purchase Agreement or grant him a credit off the note balance if the sum is inadequate to extinguish Auther McKenzie's rightful debt. In addition, if Tammy Floyd and the Driggers receive insurance proceeds which satisfy Auther McKenzie's note balance under the Purchase Agreement, the Court ought to order Tammy Floyd and the Driggers to promptly sign all appropriate documents transferring ownership of the Property to Auther McKenzie free and clear of any and all of their liens to avoid an Unjust Enrichment in this matter.

WHEREFORE, Arthur McKenzie a/k/a Auther McKenzie, responding to the Amended Crossclaims of Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd and as his Amended Cross-Counterclaim against them, would respectfully petition the Court to dismiss the Amended Crossclaims against him and enter judgment in his favor against Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd, jointly and severally, for an amount the Court deems just and proper to prevent them from attaining an Unjust Enrichment in this matter; order Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd to promptly execute whatever documentation is required to transfer the Property to Auther McKenzie free and clear of any liens asserted by them; and grant Auther McKenzie other and further relief as the Court deems just and proper.

FOR A SIXTH CROSS-COUNTERCLAIM

(An Accounting of Purchase Agreement and Lump Sum Agreement Payments)

66. Auther McKenzie reavers each and every allegation above as if repeated verbatim herein; and he would further allege as follows:

67. Tammy Floyd and the Driggers have asserted that Auther McKenzie owes them in excess of \$100,000.00 under the Purchase Agreement. Under the circumstances, Tammy Floyd and the Driggers have the burden of proving the amount Auther McKenzie owes them under the Purchase Agreement.

68. Auther McKenzie is informed and believes that the accounting records which Tammy Floyd and the Driggers have disclosed in this litigation are inaccurate, incomplete, self-serving, and undependable.

69. Auther McKenzie respectfully petitions the Court to require Tammy Floyd and the Driggers to pay for the professional services of a certified public accountant (“CPA”) unrelated to either party in any social or business sense and selected or approved by the Court to conduct a thorough and complete forensic accounting and analysis and prepare a comprehensive report (“Forensic Report”) in accordance with generally-accepted accounting standards of whatever ledgers, books, receipt records, and all other documentation which Tammy Floyd and the Driggers have involving the amount of money Auther McKenzie has paid to them and the amount he owes to them under the Purchase Agreement. In addition, the CPA’s Forensic Report ought to identify any discuss the reliability and certification issues affecting the accounting documentation of Tammy Floyd and the Driggers involving Auther McKenzie’s payments to them under the Purchase Agreement and Lump Sum Agreement.

70. Under the circumstances, Tammy Floyd and the Driggers ought to be solely responsible for the cost of hiring the CPA to perform the forensic accounting services.

WHEREFORE, Arthur McKenzie a/k/a Auther McKenzie, responding to the Amended Crossclaims of Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd and as his Amended Cross-Counterclaim against them, would respectfully petition the Court to dismiss the Amended Crossclaims against him and enter judgment in his favor against Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd, jointly and severally, for an amount the Court deems just and proper to compensate a certified public accountant to conduct a thorough and complete forensic accounting and analysis and prepare a comprehensive Forensic Report involving whatever ledgers, books, receipt records, and all other documentation that Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd have indicating the amount of money Auther McKenzie has paid to them and the amount he owes to them under the Purchase Agreement and grant Auther McKenzie other and further relief as the Court deems just and proper.

FOR A SEVENTH CROSS-COUNTERCLAIM
(Statutory Foreclosure Procedure)

71. Auther McKenzie reavers each and every allegation above as if repeated verbatim herein; and he would further allege as follows:

72. Tammy Floyd and the Driggers were required under South Carolina law to institute formal foreclosure proceeding against Auther McKenzie if they believed he owed them money under the Purchase Agreement.

73. Tammy Floyd and the Driggers violated Auther McKenzie's foreclosure rights by failing to honor his equitable interest in the Property arising under the Purchase Agreement.

74. In addition, Tammy Floyd and the Driggers have the burden of proving the amount Auther McKenzie owes under the Purchase Agreement

75. Given the inequitable conduct of Tammy Floyd and the Driggers as asserted in this pleading, including, but not limited to, the following: (a) their total disregard of Auther McKenzie's legal rights and interests, (b) the fraudulent actions which accompanied their breaches of contract as stated herein, (c) their intentionally, grossly negligent, reckless, and self-serving inaccurate accounting involving Auther McKenzie's payments under the Purchase Agreement, (d) their false and misleading statements provided to the Magistrate's Court prompting the issuance of the Order of Ejectment; and (e) their attempt to resell the Property in which Auther McKenzie has an equitable interest to another person with total disregard for his rights and interests under South Carolina law, Tammy Floyd and the Driggers are barred under the Unclean Hands Doctrine from attaining any equitable relief arising from a foreclosure action or any other judicial proceeding.

76. The Court ought to rule that litany of repeated inequitable misconduct of Tammy Floyd and the Driggers precludes them from even foreclosing on the Property and receiving any judgment in their favor.

77. Auther McKenzie petitions the Court to either (a) compel Tammy Floyd and the Driggers to institute a formal foreclosure action which fully protects his rights

and interests, or (b) issue an Order which totally bars Tammy Floyd and the Driggers from receiving any foreclosure relief under the Unclean Hands Doctrine given their serious and repeated misconduct.

WHEREFORE, Arthur McKenzie a/k/a Auther McKenzie, responding to the Amended Crossclaims of Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd and as his Amended Cross-Counterclaim against them, would respectfully petition the Court to dismiss the Amended Crossclaims against him and (a) issue an Order requiring Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd to properly commence foreclosure proceedings against Auther McKenzie and anyone else who might have an interest in the Property and prove the amount Auther McKenzie owes, if any, to them under the Purchase Agreement, (b) issue an Order indicating that Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd have acted in an inequitable manner against Auther McKenzie involving the Purchase Agreement and Lump Sum Payment Agreement which totally bars them from attaining any equitable relief against him, including, but not limited to, any foreclosure relief, (c) order Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd to execute all appropriate documents extinguishing any lien which they may have against the Property in favor of Auther McKenzie, and (d) grant Auther McKenzie other and further relief as the Court deems just and proper.

**FOR A EIGHTH CROSS-COUNTERCLAIM
AND FIRST THIRD-PARTY COMPLAINT**

(Declaratory Judgment involving Cloud on Title and Foreclosure Rights against all parties, including Alice Peterson)

78. Auther McKenzie reavers each and every allegation above as if repeated verbatim herein; and he would further allege as follows:

79. Under the Purchase Agreement and Lump Sum Agreement, Auther McKenzie has paid Tammy Floyd and the Driggers more than \$100,000.00 during a period of approximately thirteen (13) years involving an original purchase price of \$80,000.00. In accordance with South Carolina law, Auther McKenzie has at least an equitable ownership interest in the Property.

80. On or about January 25, 2016, Tammy Floyd and the Driggers through their counsel provided Auther McKenzie with a copy of a document entitled Agreement to Sell Real Estate ("Sales Agreement") dated September 16, 2013, involving the Property in which Auther McKenzie claims an ownership interest. See copy of Sales Agreement attached hereto as Exhibit C.

81. The Sales Agreement indicates that "Tammy D. Floyd" is the "Seller" and Alice Peterson is the "Buyer;" and the "Total Purchase Price" is \$50,000.00 payable to Tammy Floyd "by cash or certified funds on the Closing or delivery of the Deed." See PARAGRAPHS ONE (1) and FOUR (4) of Sales Agreement. Affixed to the Sales Agreement appear to be signatures of Tammy Floyd and Alice Peterson.

82. The Sales Agreement does not mention any ownership interest of the Driggers or Auther McKenzie in the Property.

83. Auther McKenzie believes and alleges that Alice Peterson is currently living in the house; and she probably has made significant repairs to the interior of the once severely fire-damaged house which accounts for Tammy Floyd's relatively small

\$50,000.00 purchase price under the Sales Agreement. Under the circumstances, Alice Peterson would probably assert an ownership interest in the Property competing with the ownership interests of Tammy Floyd, the Driggers, and Auther McKenzie.

84. Accordingly, several persons have asserted or could assert various ownership interests in the Property, including Tammy Floyd, the Driggers, Alice Peterson, and Auther McKenzie. Accordingly, there exists a significant “cloud on the title” of the Property. Under the circumstances, Alice Peterson is a necessary party to any action involving the ownerships of others and her pertaining to the Property.

85. Auther McKenzie would respectfully request that the Court allow Tammy Floyd, the Driggers, Alice Peterson, and him to produce whatever evidence everyone has indicating their respective ownership interest in the Property for the Court’s assessment.

86. In addition, Auther McKenzie would petition the Court to (a) determine each person’s ownership interest in the Property, and (b) take appropriate measures to remove the existing cloud on the title to the Property through a formal foreclosure action or otherwise.

87. Auther McKenzie believes and alleges that Tammy Floyd and the Driggers have created the cloud on the title to the Property through their intentional misconduct, gross negligence, wantonness, recklessness, or total disregard for the rights of Auther McKenzie and Alice Peterson. Auther McKenzie would request that the Court assess reasonable attorney’s fees and costs he has incurred against Tammy Floyd and the Driggers involving this action to remove the cloud on the title to the Property.

WHEREFORE, Arthur McKenzie a/k/a Auther McKenzie, responding to the Amended Crossclaims of Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd and asserting his Amended Counter Crossclaim against them and his Third-Party Complaint against Alice Peterson, would respectfully petition the Court to dismiss the Amended Crossclaims against him; conduct a hearing, assess the evidence, and render a decision designating the ownership interest of each party involving the Property; enter judgment in his favor against Marion L. Driggers, Shiralee Driggers, and Tammy D. Floyd, jointly and severally, for a reasonable sum of attorney's fees and litigation costs of Auther McKenzie in this matter; and grant him other and further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED,

CORBIN LAW FIRM

227 West Evans Street
Post Office Box 447
Florence, South Carolina 29503
(843)667-6119

BY:



Daryl J. Corbin, Esquire
Attorney for Auther McKenzie

Florence, South Carolina

February 8, 2016

EXHIBIT A

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

CONTRACT FOR SALE AND PURCHASE
M-L-D (40)

THIS CONTRACT FOR SALE AND PURCHASE entered into on this 25th day of April 1997 ~~May 1996~~, by and between Tammy D. Floyd, Route 2, Box 212, Lake City, State of South Carolina, hereinafter referred to as "Seller" and Lisa Gamble, of the County of Williamsburg, State of South Carolina, hereinafter referred to as "Buyer."

In consideration of the sum of Five and no/100 (\$5.00) Dollars and the mutual promises and covenants herein contained, the parties agree as follows:

1. PURCHASE PRICE: The Seller agrees to sell and the Buyer agrees to buy from the Seller the hereinbelow described tract of land, with the buildings and improvements thereon, in Williamsburg County, South Carolina, for a total purchase price of Eighty thousand and no/100 (\$80,000.00) Dollars and is to be paid with interest according to the terms and conditions of this agreement. Financing terms are as follows:

(a) The Buyer will pay to the Seller the sum of Eight thousand and no/100 (\$8,000.00) Dollars on or before May 1, 1996;

(b) This agreement shall be effective on the date of the agreement stated above;

(c) The balance due on the purchase price, the sum of Seventy two thousand and no/100 (\$72,000.00) Dollars will be repaid with interest thereon from February 1, 1996,

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LISA GAMBLE
WILLIAMSBURG CO. SC

until fully paid at the rate of Ten (10%) percent per annum. Such principal and interest shall be payable monthly with the first installment of principal and interest due on the 1st day of March 1996, and subsequent installments of principal and interest due on the same day of each succeeding month thereafter until paid in full, with Two hundred forty (240) monthly payments of Six hundred ninety four and 81/100 (\$694.81) Dollars per month until all principal and interest is paid in full. The Buyer shall have a Ten (10) day grace period before any payment is in default. DEFAULT in the payment of any installment when due shall render the entire balance due at the option of the seller.

(d) Payments by cash, bank check or certified funds will be made to the following:

Leroy Driggers
Route 1, Box 589
Lake City, SC 29560

Payments shall be delivered or posted in the United States mail to the above person on or before the 15th day of each month. Any payment not received or posted on or before the last day of any month shall result in the contract being in **DEFAULT**.

(e) Williamsburg County taxes on the premises shall be paid on or before the 15th day of January of each year during the term of this agreement. Failure to pay taxes by the 15th day of January shall result in this agreement being in default.

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(f) Insurance (homeowners, fire and extended coverage) will be procured by the Buyer during the term of this agreement in a sum not less than Eighty thousand and no/100 (\$80,000.00) Dollars in the name of Lisa Gamble. with a loss payable clause in favor of the Seller. Proof of insurance will be provided with a copy of paid receipt within fifteen (15) days of the execution of this Contract and annually on or before the renewal date.

3. DESCRIPTION OF PREMISES: The tract being sold is described as follows:

All that certain piece, parcel or tract of land, lying, being and situate in Sumter Township, County of Williamsburg, State of South Carolina, containing Three and seven hundred twenty one thousandths (3.721) acres, being triangular in shape and more particularly shown and delineated as Tract No. 2 on a plat thereof prepared by L. M. Coleman, III, R.L.S., dated March 9, 1984, and recorded in the Office of the Clerk of Court for Williamsburg County in Plat Book 34 at page 186 and bounded and described as follows, to-wit: On the Northwest by lands of Heirs of Kenneth B. Floyd and Tract No. 1 as shown on the plat hereinabove referred to; on the Northeast by other lands of RRD, a South Carolina Limited Partnership, formerly lands of C. R. Coker, a ditch being the line; and on the South by US Highway 378. The same being the identical tract of land conveyed to E. L. Matthews by Blue, Inc. by deed dated the 15th day of November 1991, and recorded in the Office of the Clerk of Court for Williamsburg County in Deed Book 273 at page 230. Tax Map #45-118-46.

4. ATTORNEYS REPRESENTING THE PARTIES: The Seller is represented by W. E. Jenkinson, III, Esquire, Jenkinson & Jenkinson, P.A., 120 West Main Street, Kingstree, South Carolina; Arthur McKenzie is represented by Daryl J. Corbin, Esquire, Florence, South Carolina.

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5. CLOSING DATE AND TIME: The closing date of sale of the property from the Seller to Buyer in accordance with the provisions of this contract shall take place on or before the 15th day of May 1996, at the law offices of Jenkinson and Jenkinson, P.A., 120 West Main Street, Kingstree, South Carolina.

6. DEFAULT: In every place in which this Contract refers to the term "default" or "DEFAULT", it shall result in the following rights or obligations of the Buyer and Seller:

(a) In the event of a DEFAULT by the Buyer, all contract rights of the Buyer, Gamble and McKenzie will terminate. Buyer and McKenzie acknowledge they have no rights to equity from rent paid. The Seller will notify the Buyer of any default in writing and to vacate the premises. The Buyer shall have the right to vacate within Thirty (30) days from written notice. If the Buyer fails to vacate within Thirty (30) days, the Seller shall commence eviction proceedings in Magistrate's Court. The notice shall have the event of default. The Buyer will have A TEN (10) DAY RIGHT TO CURE the default.

(b) Buyer or any occupants of the premises agree to vacate the premises upon written notice of DEFAULT.

(c) All payment made under the terms of this contract, in the event of DEFAULT will be treated as RENT by the Buyer and Seller during the term hereof, and the Buyer will have no right to claim any equity in the

premises.

7. CONVEYANCE: Seller shall convey title to the property by quit claim deed subject to any liens, encumbrances or restrictions existing of record, taxes for the year of closing and such other matters as may be specifically approved by the Buyer. The Seller agrees it shall cause no liens, encumbrances or restrictions to be placed against the property during this contract.

8. EXPENSES AND PRORATION: Property taxes shall be paid by the Buyer in their entirety; the Buyer shall provide the documentary stamps on the deed when the deed is executed and delivered.

9. ATTORNEY'S FEES AND COSTS: In connection with any litigation arising out of a breach of this contract, the Seller shall be entitled to recover all reasonable costs incurred including reasonable attorney's fees.

10. WARRANTIES OR REPRESENTATIONS: The Seller makes no warranties of title or any warranties as to the condition of the house. It is being purchased as is where is with no warranty expressed or implied or any warranty, condition or representation as to the title to the premises.

DISCLAIMER WARRANTIES: NO WARRANTY, EXPRESSED OR IMPLIED, APPLIES IN THIS SALE OR TRANSACTION INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF THE PREMISES IS BEING PROVIDED AND THE SELLER SPECIFICALLY

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DISCLAIMS ANY WARRANTY OF CONDITION OF TITLE BEING CONVEYED BY SELLER TO BUYER. BUYER PURCHASES "AS IS" "WHERE IS".

Buyer agrees at all times to keep the premises in reasonable repair during the term of this contract. Seller has the right to annually inspect at reasonable hours on Saturdays or other mutually agreed dates upon ten (10) days written notice. Buyer will have Forty five (45) days to correct any substantial defect or condition which should be repaired or the Seller can declare the contract in DEFAULT. Buyer shall have thirty (30) additional days to cure such defects or this contract shall be in DEFAULT.

11. FORECLOSURE: In the event a foreclosure action is commenced against the premises due to any other lien or mortgage other than the Seller's mortgage, Gamble agrees to keep making the payments to Driggers or their designee so long as she or McKenzie should live on the premises even in the event of foreclosure. Payments will be made until such time as Gamble actually vacates the premises. In the event a foreclosure action results in Gamble or McKenzie being evicted, then all obligation to Leroy Driggers, Shirley Driggers and Tammy D. Floyd under the terms of this contract will be extinguished. In the event a foreclosure action is commenced, under no circumstances will the seller provide a legal defense, legal expenses or costs related to the action if McKenzie or Gamble desire to contest the foreclosure of any other

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mortgage. In addition, other than a foreclosure action instituted by the Seller due to a default of the Buyer under this agreement, neither Gamble nor McKenzie shall be responsible to the Seller for any foreclosure expenses, attorney's fees, or collection costs. Further, in the event of any foreclosure action, the Seller agrees the Buyer is entitled to any excess proceeds arising from a foreclosure beyond what the Buyer owes under this Agreement.

12. MISCELLANEOUS: The consideration of Eighty thousand (\$80,000.00) Dollars in this sale includes sums due from McKenzie to Leroy and Shirley Driggers by virtue of that certain note dated October 1, 1985, in the original sum of Fifteen thousand (\$15,000.00) Dollars and secured by a mortgage dated October 1, 1985, and recorded in the Office of the Clerk of Court for Florence County and Williamsburg County in Mortgage Book 206 at page 684. In the event of DEFAULT by Seller, the obligation of the note and mortgage referred to herein will not be extinguished or affected and this note and mortgage may be subject to foreclosure by the Driggers. However, such mortgage shall constitute a lien against the property only; and the Buyer or Mr. McKenzie shall have no liability to satisfy any deficiency judgment. Payment of the consideration of \$80,000.00 will toll any Statute of Limitations on said note and mortgage; however, satisfaction of the terms of this contract or a foreclosure as set forth in paragraph 11

hereof will extinguish the debt and the note and mortgage will be marked "paid in full" and the mortgage cancelled or record.

13. The Buyer shall have the right to pre-pay the debt under this contract at anytime without penalty.

14. SEVERABILITY: If any portion of this Contract is held legally invalid or unenforceable, the parties hereby covenant and agree that such portion or portions are absolutely and completely severable from all other portions of this contract and such other provisions shall constitute the Contract of the parties.

15. GOVERNING LAWS:

(a) The interpretation, construction, effect and validity of this Contract shall be governed by South Carolina law.

(b) This agreement has been prepared based upon the terms and conditions of a decree of the Court of Common Pleas for Williamsburg County in the case of E. L. Matthews, Plaintiff, vs. Arthur McKenzie, Defendant/Third Party Plaintiff, vs. Shirley Driggers, Third Party Defendant, Case No. 94-CP-45-380. The parties have reviewed this agreement to insure that it conforms to the agreement of the parties which is the Order of the Court. Any ambiguities or questions about the agreement of the parties will be controlled by the terms of this Contract or agreement. This agreement may be enforced by the Court of Common Pleas in said action. Both parties signed this

agreement after having read and understood the terms and conditions thereof and further upon advice of counsel.

16. BINDING EFFECT: This Agreement shall be binding upon the parties hereto (Driggers, McKenzie, Gamble and Floyd), their Heirs, Successors or Assigns.

17. The parties agree that Arthur McKenzie shall jointly share any and all responsibilities and liabilities with Lisa Gamble under the terms of this contract.

IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed on the day and year first above written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Marilyn P. Lagley
James A. Mingo

Charles G. L.
Denise P. Chivers

Arthur McKenzie
Marilyn P. Lagley

SELLER:

Tammy D. Floyd
Tammy D. Floyd

BUYER:

Lisa Gamble
Lisa Gamble

We agree to be bound by the terms of paragraphs 1 & 13.

Leroy Driggers
Leroy Driggers

Shirley Driggers
Shirley Driggers, a/k/a
Shiralee Driggers

I agree to be bound by the terms of this agreement and the Order of Court dated the 30 day of May 1996.

Arthur McKenzie
Arthur McKenzie, a/k/a
Arthur McKenzie

STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named Tammy D. Floyd, Seller, sign, seal and deliver the foregoing written instrument for the uses and purposes therein contained, and that (s)he with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me this 10th)
day of February A.D. 1998.)

[Signature] (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 6/06/2001

[Signature]

STATE OF SOUTH CAROLINA

COUNTY OF Florence

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named Arthur McKenzie, a/k/a Arthur McKenzie, sign, seal and deliver the foregoing written instrument for the uses and purposes therein contained, and that (s)he with the other witness witnessed the execution thereof.

SWORN to before me this 30)
day of October A.D. 1996.)

[Signature] (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 7-10-06

[Signature]

N/Mat-Dri.Rel

STATE OF SOUTH CAROLINA

COUNTY OF Florence

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named Lisa Gamble, sign, seal and deliver the foregoing written instrument for the uses and purposes therein contained, and that (s)he with the other witness witnessed the execution thereof.

SWORN to before me this 31)
day of October A.D. 1996.)

Denise P. Delivero (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 7-10-06

Denise P. Delivero

STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

PERSONALLY appeared before me Marianne P. Langley, the undersigned witness and made oath that she saw the within named Shirley Driggers, a/k/a Shirlee Driggers and Leroy Driggers sign, seal and as their act and deed, deliver the within written Deed for the uses and purposes therein mentioned and that she with W. E. Jenkinson, III whose signature appears above witnessed the execution thereof.

SWORN to before me this 25th
day of April 1997.

Marianne P. Langley

(SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: 6.1.7.01

RECORDED 2-10-98
BOOK A402 PAGE 115
WILLIAMSBURG CO. S.C.

BOOK A402 PAGE 126

EXHIBIT B

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)
ASSIGNMENT OF INTEREST
IN CONTRACT FOR
SALE AND PURCHASE

This Assignment of Interest in a Contract for Sale and Purchase, made and entered into on this 13th day of October 2006, by and between Lisa Gamble of the County of Florence, state aforesaid, Transferor; and Arthur McKenzie, hereinafter referred to as Transferee.

WHEREAS the Transferor entered into a Contract for Sale and Purchase with Tammy D. Floyd, dated the 25th day of April 1997, and recorded in the Office of the Clerk of Court for Williamsburg County in Deed Book A402 at Page 115, and whereas Tammy D. Floyd desires to transfer her interest in the Contract, including all equity therein, unto Arthur McKenzie, Transferee, who is the real party in interest.

KNOW ALL MEN BY THESE PRESENTS that in consideration of the sum of-----Five (\$5.00) Dollars-----and the terms and conditions set forth herein, the parties agree as follows:

1. Transferor assigns, sets over, and transfers unto Arthur McKenzie, Transferee, his heirs and assigns, all of her right, title, interest, and equity in the Contract of Sale and Purchase, hereinabove referred to, to be his absolutely.
2. Transferor acknowledges that the Transferee has made all payments and is entitled to all equity in the contract. Transferor has no further interest in the premises and signs her interest in unconditionally.

Instrument Book Page
~~200900000015~~ OR 96 233

Instrument Book Page
 200900000012 OR 96 233

WITNESS our Hands and Seals on the day and year first above written.

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF:

Rev. Walter Burgess Jr. Lisa Gamble (L.S.)
Tony Single Lisa Gamble

STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

PERSONALLY appeared before me Rev. Walter Burgess Jr. who,
 after being duly sworn, says that she saw the within named Lisa Gamble sign, seal and
 deliver the foregoing written instrument for the uses and purposes therein contained
 and that s/he with Tony Single witnesses the execution
 thereof.

SWORN to before me this 10-13-2006
 day of October 2006.

Ruth B. Brown (SEAL)
 NOTARY PUBLIC FOR SOUTH CAROLINA
 MY COMMISSION EXPIRES: 08-29-2015

200900000015
 Filed for Record in
 WILLIAMSBURG COUNTY SC
 CAROLYN WILLIAMS
 01-05-2009 At 03:29 pm.
 CONTRACT 10.00
 OR Book 96 Page 232 - 233

200900000012
 Filed for Record in
 WILLIAMSBURG COUNTY SC
 CAROLYN WILLIAMS
 01-05-2009 At 03:29 pm.
 CONTRACT 10.00
 OR Book 96 Page 232 - 233

EXHIBIT C

This is a sample and not intended for official use. Consult your attorney for an official contract.

AGREEMENT TO SELL REAL ESTATE

THIS REAL ESTATE SALES AGREEMENT is made on the 16 day, month of Sept, year of 2013.

1. Parties: The parties to this Agreement are

Seller: Name(s) Tammy D. Floyd
 Address 1264 Lucky Rd Lake City SC 29560
 Buyer: Name(s) Alice Peterson
 Address 2023 Williamsburg Ave Lake City S.C. 29560

2. Property. The Seller agrees to sell and the Buyer agrees to buy, on the terms stated in this Agreement, the following described property:

Description of Property:
 Property locally known as Parcel No. 45-118-10 located in the _____ of _____
 County of Williamsburg and state of South Carolina

Including all buildings and improvements on the Property and all rights of the Owner to streets, highways, alleys, driveways, easements and rights-of-way relating to the Property.

And Including the following items of personal property: _____

3. Restrictions. Buyer will accept the Property subject to restrictions of record providing they do not conflict with the present or intended specific improvements or intended uses of the Property, and have not been violated, unless their enforcement is barred by law; water lines, sanitary sewer, drainage, gas distribution line and main, electrical and telephone easements and rights-of-way of record provided they are or may be used to service the Property and provided buildings and other improvements on the Property are not on the easements; and also: _____

4. The PURCHASE PRICE is 50,000.00 Dollars (\$ _____), payable as follows:

\$ _____ as a deposit when Buyer signs this Agreement.

\$ _____ as an additional deposit within 48 hours after Seller signs this Agreement.

\$ _____ by assuming the principal amount still unpaid on EXISTING MORTGAGE.

\$ _____ by a standard Purchase Money Note and Mortgage from Buyer delivered at closing in the amount of \$ _____ with interest at the rate of _____%, and payment of \$ _____ monthly for a term of _____ months.

\$ ☒ (balance) by cash or certified funds on the Closing and delivery of the Deed

\$ 50,000 Total Purchase Price

If a Purchase Money Note and Mortgage is to be given by Buyer, it shall be drawn on the standard form customarily used in the vicinity. The Buyer shall pay any mortgage recording tax and recording fees.

5. Adjustments to Purchase Price. There shall be pro-rated and adjusted as of closing, any rentals, mortgage interest, taxes computed on a fiscal year basis, water and sewage charges, and the following items (List: insurance, fuel or other additional items to be adjusted)

If there is an EXISTING MORTGAGE, the Seller will furnish to the Buyer at closing a statement by the mortgagee stating the unpaid principal balance, interest due and the terms of payment and shall assign to Buyer all reserves held in escrow by the mortgagee for payment of taxes, interest and other items and the Buyer shall repay to the Seller the amount of such reserves.

The Buyer will accept title subject to, and will pay all assessments and installments of assessments for, local improvements which are not payable as of date of delivery of deed.

6. Existing Mortgage (if any). If an EXISTING MORTGAGE is assumed by Buyer, the Property will be conveyed subject to the continuing lien of

the EXISTING MORTGAGE.

7. **Financing.** If all or part of the purchase price is to be financed by a new mortgage, Buyer agrees, upon acceptance by the Seller, to apply forthwith and in good faith for, and diligently process a _____ year mortgage commitment in the amount of \$ _____ at a rate not exceeding _____ %. Should such mortgage commitment be not obtained by either party by _____, 20____, or be thereafter rescinded without fault of the Buyer, either party may cancel this Agreement by giving written notice of such cancellation to the other party, in which event the monies paid on account hereof shall be returned to Buyer and this Agreement shall become null and void and neither party hereto shall have any claim against the other.
8. **Costs and Expenses.** Seller shall pay any state transfer tax and for the filing of documents required to perfect title. Buyer shall pay mortgage tax, fee for recording deed and mortgage, mortgage holders assumption fee, private mortgage insurance premium, if applicable, and all inspection and reinspection fees charged by its lender, unless otherwise agreed upon.
9. **Inspections.** Before closing (but after written mortgage commitment has been obtained), Buyer shall have the right to inspect the Property with utilities in service at Seller's expense on reasonable notice to Seller.
10. **Title.** Except as specifically permitted in this Agreement, Seller shall transfer to Buyer good and marketable title free and clear of all liens, encumbrances, easements, restrictions, fights and conditions of record or known to Seller.

Seller will deliver a preliminary title report on the premises setting forth all Title Exceptions.

Buyer shall have 10 calendar days to reasonably disapprove any Title Exceptions. If Buyer fails to disapprove within the time stated, the Title Exception shall be deemed approved. Seller shall furnish at Buyer's expense a title policy issued by _____ (title company), showing good and marketable

title vested in Buyer subject only to the Title Exceptions specifically permitted under this Agreement or approved by Buyer. If Seller cannot or will not eliminate all unpermitted and unapproved Title Exceptions, or fails to deliver title as required under this Agreement, Buyer may terminate this Agreement and all deposits will be returned to Buyer and neither party shall have any other or further liability to the other.

11. **Deed.** At the time of closing herein, Seller shall tender to Buyer a Quick Claim ~~Fee simple~~ deed (with lien covenant) conveying good and marketable title in fee simple to said premises free and clear from all liens and encumbrances, except as otherwise provided herein.

12. **Possession.** The Buyer shall have possession and occupancy of the premises from and after the closing of deed, subject only to the matters herein otherwise provided for, and the following: (List any continuing tenancies, etc.)

13. **Closing.** This Contract shall be closed at the appropriate recording office on the _____ day of _____, 20____, or at such time and place as Seller and Buyer mutually agree upon. Time is not of the essence as to the closing date; either party may after the above date, upon reasonable notice, declare time to be of the essence and set such a closing date.

14. **Condition of Property.** Buyer has inspected the buildings on the Property and the personal property included in this sale and is thoroughly acquainted with their condition. Buyer agrees to purchase them "AS IS" and in their present condition subject to reasonable use, wear, tear, and natural deterioration between now and CLOSING. Buyer shall have the right, after reasonable notice to Seller, to inspect them before Closing.

15. **Default.**

By Buyer: If Buyer fails to perform the Buyer's obligations, any deposits made by Buyer as may be retained by the Seller as agreed liquidated damages and in full settlement of any claim for damages.

By Seller: If the Seller fails to perform any of the Seller's obligations, any deposits made by the Buyer, shall be returned to the Buyer on demand.

16. **Broker's Commission.** Seller and Buyer agree N/A brought about this sale and the Seller agrees to pay the entire broker's commission. Seller authorizes his attorney to pay any balance of sale commission owed out of sale proceeds; The deposit(s) shall be held in escrow by N/A.

17. **SIGNATURES.** Unless all of the persons whose names appear at the beginning of the Agreement sign it on or before the _____ day of _____, this Agreement shall not become effective.

[Signature]
Seller

9/16/13
Date

[Signature]
Purchaser

9/16/13
Date

Seller

Date

Purchaser

Date

RECEIPT OF DEPOSIT:

Received the initial deposit of \$ _____ on _____ account from Buyer.

Agent's Signature

©2000 Allegiance Mortgage Services. Sample Sales Contract

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
) THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG) Case No: 2014-CP-45- 00132

South Carolina Farm Bureau Mutual)
Insurance Company,)
)
Plaintiff,)

VS.

SUMMONS

(Declaratory Judgment Action)

Marion L. Driggers, Shiralee Driggers,)
 Tammy D. Floyd, Arthur McKenzie, a/k/a)
 Auther McKenzie, The Travelers Home)
 and Marine Insurance Company, The)
 United States of America acting by and)
 through its agency, The Internal Revenue)
 Service and The South Carolina Tax)
 Commission,)
)
 Defendants.)

TO: THE DEFENDANTS NAMED ABOVE:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, which has been filed with the Clerk for said County, in Horry and to serve a copy of your answer to the said complaint on the subscribers at their office at PO Box 70218, Myrtle Beach, SC 29572 within thirty (30) days after the service hereof: exclusive of the day of such service; and if you fail to answer the complaint, within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the complaint.

S. J. Dwight Hudson, Esq.
J. Dwight Hudson, Esquire
SC Bar # 2753
Hudson Law Offices
PO Box 70218
Myrtle Beach, SC 29572
(843) 692-9889
Attorney For: Plaintiff

Date: July 13, 2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG	)	Case No: 2014-CP-45-00132

South Carolina Farm Bureau Mutual	)
Insurance Company,	)
	)
Plaintiff,	)

vs.

Marion L. Driggers, Shiralee Driggers,	)
Tammy D. Floyd, Arthur McKenzie, a/k/a	)
Auther McKenzie, The Travelers Home	)
and Marine Insurance Company, The	)
United States of America acting by and	)
through its agency, The Internal Revenue	)
Service and The South Carolina Tax	)
Commission,	)
	)
Defendants.	)

AMENDED COMPLAINT

(For: Declaratory Judgment
Misrepresentation, Breach of
Contract & Equitable Indemntiy)

The Plaintiff, South Carolina Farm Bureau Mutual Insurance Company, amending its complaint against the Defendants herein, would show unto this Honorable Court as follows:

1. The Plaintiff, South Carolina Farm Bureau Mutual Insurance Company (Hereinafter, SCFB) is a company organized and existing under and by virtue of the laws of the State of South Carolina and is in the business of offering and/or providing insurance coverage to members of South Carolina Farm Bureau Federation. The Plaintiff is organized to do business and is doing business in Williamsburg County, South Carolina.

2. Upon information and belief, the Defendants Marion L. Driggers and Shiralee Driggers are husband and wife, and they are citizens and residents of Williamsburg County, South Carolina.
3. Upon information and belief, the Defendant Tammy D. Floyd is a citizen and resident of either Williamsburg County, South Carolina or Horry County, South Carolina.
4. Upon information and belief, the Defendant Arthur McKenzie is a citizen and resident of Williamsburg County, South Carolina.
5. Upon information and belief, the Defendant, The Travelers Home and Marine Insurance Company is a company organized and existing under and by virtue of the laws of one of the states of the United States, is organized to do business and is doing business in Williamsburg County, South Carolina and is in the business of offering and/or providing insurance coverage.
6. Upon information and belief, the Defendant, The United States of America acting by and through its agency the Internal Revenue Service is an agency, division or department of the federal government.
7. Upon information and belief, the Defendant, The South Carolina Department of Revenue, is an agency, division or department of the government of the State of South Carolina.
8. On or about November 26, 2009, what appears to have been an intentionally set fire damaged or destroyed a dwelling (Hereinafter referenced as "the subject property") which is more particularly described as follows:

All that certain piece, parcel or tract of land with an address of 3328 Turbeville Highway (also known as 200 W. Hwy 378 Bypass, Lake City, South Carolina) lying, being and situate in Williamsburg County, South Carolina, containing three and seven hundred twenty one thousandths (3.721) acres, being delineated as Tract No. 2 on a plat thereof prepared by L.M. Coleman, III, R.L.S., dated March 9, 1984, and recorded in the Office of the Clerk of Court for Williamsburg County in Plat Book 34 at page 186 and bounded and described as follows, to wit: On the Northwest by lands of Heirs of Kenneth B. Floyd and Tract No. 1 as shown on the plat hereinabove

referred to; on the Northeast by other lands of C.R. Coker, a ditch being the line; and on the South by US Highway 378. The same being the identical tract of land conveyed to E.L. Matthews by Blue, Inc., by deed dated the 15th day of November 1991, and recorded in the Office of the Clerk of Court for Williamsburg County in Deed Book 273 at page 230 and thereafter conveyed by the said E.L. Matthews to Tammy D. Floyd as appears on the records of Williamsburg County. Tax Map #45-118-46.

9. Prior to and at the time of the said fire loss, the subject property was titled to Defendant Tammy D. Floyd, the daughter of Defendants Marion L. Driggers and Shiralee Driggers. Defendant Floyd held the title to the property on behalf of or in partnership with her parents, Defendants Driggers.

10. Prior to and at the time of the said fire loss, the property was being purchased and was occupied by Defendant Arthur McKenzie pursuant to a "rent to own" agreement, upon which he had made numerous payments such that he held an ownership interest, and therefore owned the property along with Driggers, Driggers and Floyd. Under the terms of the "rent to own" agreement, Defendant McKenzie was obligated to insure the property including the interests of Defendants Driggers and/or Floyd by listing them as the loss payees/insureds or additional insureds. Additionally, this Court has previously issued an Order requiring McKenzie to insure Drigger's interest in the property.

11. Defendant McKenzie did insure the property, insuring his ownership interest in the dwelling along with its contents. However, he did so without noting the interest of Defendants Driggers as per the agreement referenced above. At the time of the said fire loss, the subject property was insured by Defendant McKenzie via a policy with Defendant Travelers.

12. Under the Travelers policy, (**attached & incorporated as EXHIBIT B**) Defendant Arthur McKenzie was the sole named insured on Homeowners Policy No. 984761288 633 1 for policy period 5/07/09 - 5/07/10 providing, in relevant part, the following coverage:

A:	Dwelling:	\$287,000
B.	Other Structures:	\$ 28,700
C.	Personal Property:	\$200,900
D.	Loss of Use:	\$ 86,100

13. Defendants Driggers were concerned that Defendant McKenzie would not insure their interests in the property as agreed, so they purchased a fire insurance policy through the Plaintiff, South Carolina Farm Bureau Mutual Insurance Company, essentially using the Farm Bureau insurance as mortgage insurance, though doing so without giving Farm Bureau notice of the true ownership interests and complicated history surrounding this property.

14. Under the Farm Bureau policy, (**attached & incorporated as EXHIBIT A**) Defendant Marion L. Driggers was the named insured on Policy No. FI 0401219 for policy period 5/24/09 - 5/24/10 providing, in relevant part, the following coverage:

A:	Dwelling:	\$118,000
B.	Other Structures:	\$ 5,900
D.	Loss of Use:	\$ 11,800

15. Claims have been made by the insureds under both policies. However, the Plaintiff did not receive notice of this fire, nor any claim from the Insured, Marion L. Driggers, until about October 30, 2012, approximately two (2) years and eleven (11) months after the subject fire loss, about a month prior to the running of the statute of limitations.

16. The Plaintiff believes that §38-75-20, *SC Code. Ann.* applies to this matter. That statute provides that if two or more fire insurance policies are written upon the same property, "they are considered to be contributive insurance, and if the aggregate sum of all such insurance exceeds the insurable value of the property, as agreed by the insurer and the insured, each insurer, in the event of a total or partial loss, is liable for the pro rata share of insurance." Farm Bureau alleges that both of the policies insured jointly held ownership interests, as confirmed by the fact that

both policies insured the dwelling. Had either policy not insured an ownership interest, then it could not have covered the dwelling. The fact that both carriers issued policies insuring the dwelling establishes that both policies insured an ownership interest held by the named insureds.

17. Where other insurance also covers a loss, Farm Bureau's Policy provides as follows:

7. OTHER INSURANCE. If a loss covered by this policy is also covered by other insurance, a service contract or a warranty provision, we will pay only the proportion of the loss that the limit of liability that applies under this policy bears to the total amount of insurance covering the loss.

Conditions (A)(7), p. 25.

18. As to insurable interest and limit of liability, Farm Bureau's Policy provides as follows:

1. Insurable Interest and Limit of Liability. Even if more than one person has an insurable interest in the property covered, we will not be liable in any one loss:

- a. to the insured for more than the amount of the insured's interest at the time of the loss ; or
- b. for more than the applicable limit of liability.

Conditions (A)(1), p. 21.

19. Farm Bureau's Policy also obligates the insured to perform certain duties after a loss, to wit;

2. Your Duties After Loss. In case of a loss to covered property, you must see that the following are done:

- b. give prompt notice to us or our agent;

20. The Plaintiff is informed and believes that the aggregate sum of insurance from the Travelers and Farm Bureau policies exceed the insurable value of the property within the meaning of §38-75-20, *SC Code. Ann.* and that under these facts, given that both carriers' policies insured an ownership interest, and per the said statute, and pursuant to the terms of Farm Bureau's policy of insurance, *Farm Bureau should not be liable for more than its pro rata share.*

21. The Plaintiff is further informed and believes that the amount of the Travelers coverage exceeds Defendant McKenzie's ownership interest and that per the terms of the contracts and agreements between the individual parties, and per a prior Order of this Court, Defendant McKenzie was obligated to insure the ownership interests of his co-owners, Defendants Driggers and Floyd. Therefore, the Plaintiff is informed and believes that ***the Travelers Policy also insures the interests of Defendants Driggers and/or Floyd.***

22. By the terms of the "Other Insurance" policy clause alleged above, the Plaintiff is informed and believes that ***insurance proceeds due from Farm Bureau to its insured, if any, should be in the proportional amount that its policy limit bears to the total amount of insurance covering the loss.***

23. By the terms of the "Insurable Interest and Limit of Liability" policy clause alleged above, the Plaintiff is informed and believes that ***Farm Bureau would not be liable to its insured for more than the amount of the insured's interest at the time of the loss.***

24. Farm Bureau's insured(s) did not notify the Plaintiff of this loss nor make a claim under the policy until October 30, 2012 - about 2 years and 11 months after the loss by this apparently intentional fire. Per the terms of the "Duties After Loss" policy provision, the insured was obligated to give **prompt** notice of the loss to the company and/or its agent. Having not received any notice until the Statute of Limitations was about to run, ***the Plaintiff insurer was denied the opportunity to invoke its rights under the insurance policy to obtain copies of legal papers, records and other information, to investigate with the cooperation of the insured, and to settle the claim.*** Because Farm Bureau was unable to assert its contractual rights in a timely manner, it asks the Court to declare whether it was substantially prejudiced by the late notice given by its insured(s) such that it is relieved of its duty to provide coverage.

25. The Plaintiff is informed and believes that the Defendant, the United States of America, by and through its agency, The Internal Revenue Service, may have some interest in the insurance proceeds by virtue of certain tax liens filed against Defendant McKenzie of record in various counties, including - but not limited to- two (2) liens of record in Florence County - (1) Serial Number 317830006, filed by Small Business/Self Employed Area #3; Signed by R.A. Mitchell for Debra Alford, dated 9/20/06 and recorded 9/29/06 in the Office of the Clerk of Court for Florence County **in the stated amount of \$1,192,517.05**; and (2) Serial Number 420097708, filed by Small Business/Self Employed Area #3; Signed by R.A. Mitchell for Debra Alford, dated 2/6/08 and recorded 2/19/08 in the Office of the Clerk of Court for Florence County **in the stated amount of \$46,527.18**. Other liens may or may not exist.

26. The Plaintiff is also informed and believes that the Defendant, the South Carolina Department of Revenue, may also have tax liens of record and/or as to Defendant McKenzie.

27. This action is brought pursuant to §15-53-10, et. seq. *SC Code Ann.* The Plaintiff asks that per that Statute, this Court inquire into the matter and declare the rights, status and legal relations as between the Plaintiff and Defendants concerning issues of insurance coverage including those issues referenced above.

28. The Plaintiff asks that this Court declare the following:

- A. The insurable value of the property at the time of the subject loss;
- B. The ownership interests, if any, held by the parties in the property at the time of the subject loss;
- C. The applicability of the pro rata statute and the amount due from each policy and to whom that amount is due on account of this loss, if any, considering all relevant factors, including ownership, valuation, the damage incurred, and the relevant policy provisions, including the Farm Bureau provisions cited above;

D. Whether Farm Bureau was substantially prejudiced t by the late notice given by its insured(s) such that it is relieved of its duty to provide coverage.

29. The Plaintiff seeks an award of costs and/or attorney's fees, directly or by way of offset, for the necessity of bringing this action.

**FOR A SECOND CAUSE OF ACTION
(AS TO DEFENDANTS MCKENZIE AND TRAVELERS
(Equitable Indemnity)**

30. The foregoing allegations are incorporated herein by reference as fully as though repeated verbatim.

31. Under the facts of this matter, McKenzie had a legal obligation to insure Driggers' interest in the subject property and was under a Court Order to do so. Travelers provided insurance to McKenzie and it has a contractual obligation to McKenzie and a contractual or equitable obligation to Driggers, as an intended beneficiary of the Travelers Policy, both by virtue of the agreement with McKenzie and by virtue of the Court Order. Driggers made a timely claim with Travelers under McKenzie's policy and intended to look to Travelers to pay benefits due for the fire loss in this matter, but Travelers denied his claim. Further, Travelers located Driggers and inquired as to his interest in the property. At that time, it ether learned or should have learned of SCFB's coverage and it either failed to notify SCFB of this loss or of its involvement in this loss or it negligently failed to inquire of Driggers as to other insurance coverage which it should have done and had a duty to do in good faith compliance with its

professional obligations, and to determine all issues as to coverage so that it could properly evaluate the claims and interests.

32. McKenzie and Travelers failure to honor and uphold their legal and equitable obligations has exposed the Plaintiff to liability for a loss it had no opportunity to investigate, based upon Travelers and/or McKenzie's failure to notify SCFB of the loss or of their involvement with the loss and/or they exposed SCFB to a greater portion of a loss than it should legally bear such that the wrongful acts of McKenzie and Travelers have exposed SCFB to liability.

33. SCFB is without negligence or fault in this matter and has acted properly and in good faith with all parties in an attempt to reasonably resolve the same.

34. If damages are awarded against SCFB from Driggers' claims, then SCFB is entitled to be indemnified by McKenzie and/or Travelers for any actual damages, punitive damages or attorney's fees awarded to Driggers, as well as for all expenses, costs, and Attorney's fees associated with this action and/or all expenses, costs, damages or losses to which SCFB is or may be entitled.

35. SCFB seeks the remedy of equitable indemnity from Defendants Travelers and McKenzie and SCFB is informed and believes that the ends of justice and the equities of the matter entitle it to this relief.

WHEREFORE, Plaintiff prays that this Court inquire into this matter, and issue its judgment as follows:

1. Declaring the rights, status and other legal relations between the parties as relates to coverage under the insurance policies described herein and Declaring the following:

A. The insurable value of the property at the time of the subject loss;

B. The ownership interests, if any, held by the parties in the property at the time of the subject loss;

C. The applicability of the pro rata statute and the amount due from each policy and to whom that amount is due on account of this loss, if any, considering all relevant factors, including ownership, valuation, the damage incurred, and the relevant policy provisions, including the Farm Bureau provisions cited above;

D. Whether Farm Bureau was substantially prejudiced t by the late notice given by its insured(s) such that it is relieved of its duty to provide coverage.

E. That Defendant McKenzie and/or Travelers have an obligation to insure and to cover Driggers' interest in the subject property, if any, and that Defendant Travelers does inure Driggers' interest in the subject property;

F. For costs and Attorney's fees;

G. For judgment against Travelers and McKenzie for equitable indemnity and/or an Order that Travelers and McKenzie equitably indemnify SCFB; and

H. For such other relief as this Court may deem just and proper.

s. J. Dwight Hudson, Esq.

J. Dwight Hudson, Esquire

SC Bar # 2753

Hudson Law Offices

PO Box 70218

Myrtle Beach, SC 29572

(843) 692-9889

Attorney For: Plaintiff

Date: July 13, 2016

CERTIFICATION OF SERVICE

In addition to the foregoing being served via the SC Court's efilng system, this is to certify that the foregoing has been/will be served by HUDSON LAW OFFICES by and through its agents, servants and employees as follows:

- (X) By forwarding the same via e-mail (on 7/13/16)
- (X) Placing the same in the United States mail, postage prepaid to the address noted below; (on 7/14/16)

Mr. Marion L. Driggers
3497 Hebron Road
Lake City, SC 29560
Email: mldriggers@yahoo.com

On 7/13/16 By:

- () Transmitting the same by facsimile to the numbers noted below;
- (X) The E-Filing Notification System and/or by e-mail to counsel noted below:

William P. Davis
Baker Ravenel & Bender, LLP
Email: wdavis@brblegal.com
Attorney for Traveler's

Daryl J. Corbin Esq.
Email: corbinlawfirm@corbinlawsc.com
Attorney for McKenzie

Tasha Thompson Esq.
Email: thompst@sctax.org
Attorney for SC Dpt of Revenue

George J. Conits Esq.
Email: George.Conits@usdoj.gov
Attorney for The United States of America

Edward K. Pritchard III Esq.
Elizabeth F. Fulton, Esq.
Email: epritchard@pritchardlawgroup.com
Liz@PritchardLawGroup.com
Attorney for S Driggers & T. Floyd



DWELLING FIRE POLICY DECLARATIONS
SOUTH CAROLINA FARM BUREAU MUTUAL INSURANCE COMPANY
PO BOX 2124, WEST COLUMBIA, SC 29171-2124

Policy Form: **DF3 (12/2002)**
CO-INSURANCE APPLIES.

Policy Number: **FI 0401219**

Dec No.: **15.000**

The Declarations of the policy indicated herein are subject to all other terms and conditions of the policy and replace all previously issued declarations, if any. This Declaration Page becomes a permanent part of your policy. Please attach it to your policy booklet.

THIS DECLARATION PAGE IS EFFECTIVE **05/24/2009** TO **05/24/2010** AT 12:01 A.M. EASTERN STANDARD TIME AND FOR EACH SUCCEEDING POLICY PERIOD OF 12 MONTHS HEREAFTER AS THE RENEWAL PREMIUM IS PAID ON OR BEFORE THE EXPIRATION DATE OF THE CURRENT TERM AND ACCEPTED BY THE COMPANY.

Named Insured and Address

MARION L DRIGGERS
3497 HEBRON RD
LAKE CITY, SC 29560-7695

Agent Information

WAYNE MCKENZIE
FLORENCE (843) 669-3173
102 EAST REDBUD LN FLORENCE, SC 29505-5025

Policy Premium	Premium Paid By
\$936.81	INSURED

Insurance for each covered item is provided for risks against direct physical loss.
Please refer to your policy booklet for all definitions, coverages, perils insured against, exclusions, and policy conditions.

Schedule of Covered Items	Limit Of Liability	SC Valuation Clause	Item Deductible	Premium
POLICY ENDORSEMENT PREMIUM				\$0.00
POLICY ENDORSEMENT EN0900 AMENDATORY ENDORSEMENT				
ITEM 1: RESIDENCE PREMISES INCLUDES THE AREA WITHIN 250 FEET OF THE MASONRY TENANT OCCUPIED DWELLING LOCATED AT 3328 TURBEVILLE HWY LAKE CITY, SC 29560 8949				
ITEM 1 IS SUBJECT TO THE FOLLOWING PREMIUM ADJUSTMENTS: NONE				
ITEM 1 COVERAGES: A - DWELLING PROTECTION: B - OTHER STRUCTURES PROTECTION: D - LOSS OF USE PROTECTION:	\$118,000 \$5,900 \$11,800	\$118,000	\$1,000	\$348.00
ITEM 1 IS SUBJECT TO THE FOLLOWING ENDORSEMENTS: DF0089 - LANDLORD'S LIABILITY DF0216 - PREMISES ALARM OR FIRE PROTECTION SYSTEM EN0312 - WIND OR HAIL DEDUCTIBLE CLAUSE IMPORTANT NOTICE THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR NAMED STORM OR WIND/HAIL LOSSES, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU. THE ENCLOSED EXAMPLE ILLUSTRATES HOW THE DEDUCTIBLE MIGHT AFFECT YOU. EN9207 - INFLATION PROTECTION				
MORTGAGEE CITIZENS BANK PO BOX 446 TURBEVILLE SC, 29162-0446 LOAN NUMBER :				
ITEM 2: RESIDENCE PREMISES INCLUDES THE AREA WITHIN 250 FEET OF THE MASONRY TENANT OCCUPIED DWELLING LOCATED AT 229 THOMAS ST OLANTA, SC 29114 9318				
** ITEM 2 CONTINUED ON NEXT PAGE **				

021-000 FI 0401219-4

BCH

04/09/2009

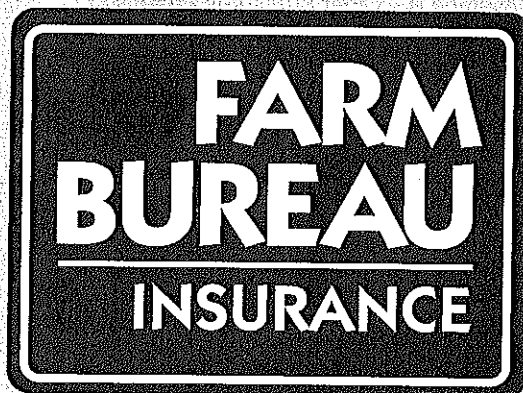
Date Prepared

Authorized Representative

**South Carolina Farm Bureau
Mutual Insurance Company or
Southern Farm Bureau Casualty or
Palmetto Casualty Insurance Company**

DWELLING FIRE POLICY

FORM DF3



**YOUR POLICY CONSISTS OF THIS BOOKLET AND THE APPROPRIATE
DECLARATIONS, FORMS AND ENDORSEMENTS.**

**COVERAGES APPLY ONLY WHEN PROPERLY SHOWN ON THE
DECLARATIONS PAGE.**

FORM DF3 (12/02)

YOUR DWELLING FIRE POLICY QUICK REFERENCE

DECLARATIONS PAGE

Your Policy Period
Your Name and Address
Your Dwelling
Endorsements
Coverages and Amounts of Insurance
Mortgagee Identification

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COUNTY MEMBERSHIP PROVISIONS

1. As a prerequisite to your purchase of this policy and any renewal of this insurance, you must make application to be a member of and maintain your membership in the applicable county Farm Bureau agricultural organization and affiliated state Farm Bureau agricultural organization (hereinafter collectively known as "Farm Bureau Federation").
2. Your failure to apply for membership and to maintain your membership with the applicable Farm Bureau Federation as our sponsoring organization, including but not limited to your failure to pay the required membership dues to the Farm Bureau Federation, shall require us to cancel or nonrenew your policy.
3. Dues payable to the Farm Bureau Federation are in consideration of membership in the Farm Bureau Federation and other agriculture-related services from Farm Bureau Federation and:
 - a. are not in consideration of coverage under this policy; and
 - b. are not payable to South Carolina Farm Bureau Mutual Insurance Company, Southern Farm Bureau Casualty Insurance Company, or any other insurer named on the Declarations.

AGREEMENT

Relying on the facts **you** have given **us**, **we** will provide the insurance described in this policy for the limits shown in the latest Declarations in return for the premium and **your** compliance with all applicable provisions of this policy. This policy is not complete without the Declarations.

DEFINITIONS

Certain words and phrases in this policy have specific meanings.

1. In this policy, **you** and **your** refer to the **named insured** shown in the Declarations and the spouse if a resident of the same household.
2. **We**, **us** and **our** refer to the Company providing this insurance.
3. **Insured** means **you** and residents of **your** household who are:
 - a. **your** relatives, or
 - b. other persons under the age of 21 and in the care of any person named above.
4. **Actual cash value** means the cost to replace new today with materials of like kind and quality, less physical depreciation and economic obsolescence.

5. **Business** means a full-time, part-time or occasional trade, profession or occupation, whether permanent or temporary, including farming.
6. **Electronic Data** means information facts or programs stored as, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, servers, cells, data processing devices, or any other media which are used with electronically controlled equipment.
7. **Fungi** means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or byproducts produced or released by any fungus, but does not include any fungus that is, is on, or is contained in, any goods or products intended for consumption.
8. **Occurrence** means an accident, but does not include exposure to conditions, which results during the policy period in:
 - a. **bodily injury**; or
 - b. **property damage**.
9. **Pollutants** means any solid, liquid, gaseous or thermal irritant, contaminant, or fuel including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes but is not limited to materials to be recycled, reconditioned or reclaimed.
10. **Recreational vehicle** means a 2-, 3- up to 8-wheeled or tracked land or amphibious vehicle that is unlicensed and not subject to motor vehicle registration, powered by a petroleum fuel engine or electric motor, used off public roads or highways for personal pleasure or recreation.
11. **Residence employee** means an employee of an **insured**, or an employee leased to an **insured** by an agreement with a labor leasing firm, who performs duties, including household or domestic services, in connection with the maintenance or use of the **residence premises**. This includes employees who perform similar duties elsewhere for **you**. This does not include employees while performing duties in connection with the **business** of an **insured**.
12. **Residence premises** means the dwelling, other structures, and grounds which are shown in the Declarations and not used for **business**.
13. **Terrorism** means activities against persons, organizations or property of any nature:
 - a. that involve the following or preparation for any of the following:
 - (1) use or threat of force or violence;
 - (2) commission or threat of a dangerous act; or
 - (3) commission or threat of an act that interferes with or disrupts an electronic,

communication, information, or mechanical system; and

b. when one or both of the following applies:

- (1) the effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
- (2) it appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social, or economic objectives or to express (or express opposition to) a philosophy or ideology.

COVERAGES

This insurance applies to the **residence premises**, coverages for which a Limit of Liability is shown, and Perils Insured Against for which a Peril Group is shown in the Declarations.

COVERAGE A - DWELLING PROTECTION

We cover:

1. the dwelling on the **residence premises** shown in the Declarations, used principally as a private residence, including structures attached to the dwelling;
2. attached structures, steps, equipment and accessories which form a permanent part of the dwelling. This includes, but is not limited to: floor coverings, appliances, counters, and cabinets. But **we** do not cover satellite dish antenna systems or related equipment;
3. oil and gas drums or tanks, connected to the dwelling which furnish heating or cooking fuel;
4. materials and supplies located on or next to the **residence premises** used to construct, alter or repair the dwelling or other structures on the **residence premises**; and
5. decks and porches forming living or recreation space for the dwelling.

This coverage does not apply to land, and will not cover costs to replace, rebuild, stabilize or otherwise restore the land necessary to support the dwelling covered. Nor does this coverage apply to any water whatsoever.

COVERAGE B - OTHER STRUCTURES PROTECTION

We cover other structures on the **residence premises** separated from the dwelling by clear space:

1. structures connected to the dwelling by only a fence, utility line or similar connection are considered to be other structures; and

2. outdoor equipment used to service the **residence premises**.

This coverage does not apply to land, and will not cover costs to replace, rebuild, stabilize or otherwise restore the land necessary to support the other structures covered. Nor does this coverage apply to any water whatsoever.

We do not cover:

1. other structures used in whole or in part for **business**, including storage of any **business** property.
2. barns, outbuildings, or sheds used in whole or in part as farm barns, farm outbuildings, or farm sheds;
3. other structures rented or held for rental to any person not a tenant of the dwelling, unless used solely as a private garage; or
4. satellite dish antenna systems or related equipment for more than \$500, unless separately insured and a premium paid for the coverage.

COVERAGE C - PERSONAL PROPERTY PROTECTION

We cover personal property only when this coverage and a Limit of Liability are shown in the Declarations. This personal property must be usual or incidental to the occupancy of the **residence premises** as a dwelling and owned or used by an **Insured** while it is at the **residence premises**. At your request, **we** will cover personal property owned by:

1. others while the property is on the part of the **residence premises** occupied by an **insured**; and
2. a guest or a **residence employee**, while the property is in any residence occupied by an **insured**.

Our limit of liability for personal property away from the **residence premises** is 10% of the limit of liability for Coverage C, or \$1,000, whichever is greater. Personal property in a newly acquired principal residence is not subject to this limitation for the 30 days from the time **you** begin to move the property there.

We do not cover:

1. articles separately described and specifically insured in this or other insurance, or specifically excluded elsewhere in this insurance policy;
2. accounts, bills, bullions, currency, deeds, evidences of debt, manuscripts, money or securities;
3. animals, birds or fish;

4. aircraft, hovercraft and parts for aircraft or hovercraft. Aircraft means any contrivance used or designed for flight, except model or hobby aircraft not used to carry people or cargo. Hovercraft means a self-propelled motorized ground effect vehicle, and includes, but is not limited to, hovercraft and air cushion vehicles.
5. watercraft, other than rowboats and canoes for more than \$500, unless separately insured and a premium paid for the coverage;
6. credit cards or fund transfer cards;
7. land. **We** will not cover costs to replace, rebuild, stabilize or otherwise restore the land necessary to support the buildings covered. Nor do **we** cover any water whatsoever.
8. motor vehicles, **recreational vehicles** and any other motorized land conveyances unless separately insured and a premium paid for the coverage. This includes:
 - a. all-terrain, four-wheeler type vehicles, designed for recreational use;
 - b. equipment and accessories; or
 - c. any device or instrument for the transmitting, recording, receiving or reproduction of sound, signals, or pictures which is operated by power from the electrical system of motor vehicles or any other motorized land conveyances, including:
 - (1) accessories or antennas;
 - (2) tapes, wires, records, discs or other media for use with any such device or instrument; or
 - (3) radar detection devices;

while in or upon the vehicle or land conveyance.

We do cover vehicles or conveyances not subject to motor vehicle registration which are:

- a. lawn and garden tractors with a 30 horsepower rating or less, but not **recreational vehicles**; or
- b. designed or used for assisting the handicapped;
9. property of roomers, boarders and other tenants, except property of roomers and boarders related to an **insured**;
10. property rented or held for rental to others off the **residence premises**; nor
11. satellite dish antenna systems or related equipment.

COVERAGE D - LOSS OF USE PROTECTION

The limit of liability for Coverage D is the total limit for all coverages below.

1. **Fair Rental Value.** If a loss to **your** property described in Coverage A caused by a Peril Insured Against under this policy makes that part of the **residence premises** rented to others or held for rental by **you** uninhabitable, **we** cover the fair rental value of that part of the **residence premises** rented to others or held for rental by **you**, less any expenses that do not continue while the premises are uninhabitable. Payment will be for the shortest time required to repair or replace that part of the premises rented or held for rental. But in any event, that time will not exceed 180 consecutive days from the date of loss. **We** will pay only 1/6 of the limit of liability for each month the rented part of the Covered Item at the described location is unfit for its normal use. Payment under this coverage does not reduce the Coverage A limit of liability by the amount paid.
2. **Additional Living Expenses.** **We** cover additional living expenses if a loss to **your** property described in Coverage A or C caused by a Peril Insured Against under this policy makes that part of the **residence premises** where **you** reside uninhabitable. **We** cover the necessary increase in living expenses incurred by **you** so that **your** household can maintain its normal standard of living. Payment will be for the shortest time required to repair or replace the damage, or if **you** permanently relocate, the shortest time required for **your** household to settle elsewhere. But in any event, that time will not exceed 180 consecutive days from the date of loss.
3. **Prohibited Use.** If a civil authority prohibits **you** from using the **residence premises** as a result of direct damage to neighboring premises by a Peril Insured Against in this policy, **we** cover the Additional Living Expense or Fair Rental Value loss as provided under 1 and 2 above for no more than a total of fourteen days.

The periods of time under 1, 2, and 3 above are not limited by expiration of this policy.

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

ADDITIONAL COVERAGES

Unless specifically stated otherwise, the Loss Deductible Clause applies.

1. **Arson Award.** At **our** option, **we** will pay up to \$5,000 for information which leads to an arson, vandalism, or malicious mischief conviction in connection with a loss covered by this policy. Regardless of the number of persons providing information, **our** limit shall not be increased. This coverage is additional insurance. No deductible applies to this Additional Coverage.
2. **Collapse.**
 - a. For this Additional Coverage:

- (1) Collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its current intended purpose.
 - (2) A building or any part of a building that is in danger of falling down or caving in is not considered to be in a state of collapse.
 - (3) A part of a building that is standing is not considered to be in a state of collapse even if it has separated from another part of the building.
 - (4) A building or any part of a building that is standing is not considered to be in a state of collapse even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
- b. **We** insure for direct physical loss to covered property involving collapse of a building or any part of a building if the collapse was caused by one or more of the following:
- (1) Perils Insured Against in Coverage C – Personal Property, in this policy. These perils apply to covered buildings and personal property for loss insured by this additional coverage;
 - (2) Decay that is hidden from view, unless the presence of such decay is known to an **insured** prior to collapse;
 - (3) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an **insured** prior to collapse;
 - (4) Weight of contents, equipment, animals or people;
 - (5) Weight of ice, sleet, snow or rain which collects on a roof; or
 - (6) Use of defective material or methods in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation.

Loss to an awning, driveway, fence, patio, deck, pavement, swimming pool, underground pipe, flue, drain, cesspool, septic tank, foundation, retaining wall, bulkhead, pier, wharf or dock is not included under items (2), (3), (4), (5) and (6) unless the loss is a direct result of collapse of a building or any part of a building.

Collapse does not include settling, cracking, shrinking, bulging or expansion.

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

3. **Damage from Fungi.** If water causes covered damage, then **we** will pay up to 2% of

the Coverage A item limit of liability for all incurred costs applicable to Coverages A, C, and D only for direct physical loss to covered property caused by, resulting from, contributed to, or aggravated by **fungi**.

This 2% limit applies per **occurrence** for item coverages (A, C, and D only) combined and not separately for each coverage. For all incurred damages and for all **occurrences** during a policy period, **we** will not pay more than 3% of the limit for Coverage A for that item. Our limit includes all costs associated, or alleged to be associated, with "Damage from **Fungi**," including but not limited to, surveys, tests, remediation, and repairs.

No Damage from **Fungi** coverage applies to any **Other Structures** (Coverage B). This Additional Coverage does not increase the limit of liability applying to any coverage.

4. **Debris Removal.** We will pay your reasonable expense for the removal of:

- a. debris of covered property if a Peril Insured Against causes the loss to that property; or
- b. ash, dust or particles from a volcanic eruption that has caused direct loss to a covered building or covered property contained in a building.

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

- c. **We** will also pay your reasonable expense for the removal of fallen trees from the **residence premises** provided the tree damages property insured under Coverages A or B, and a Peril Insured Against causes the tree to fall. **Our** limit of liability for this coverage will not be more than \$250 in the aggregate for any one occurrence.

- d. **We** do not cover any expense for:

- (1) extracting any **pollutant** from land, soil, or water on or under any **residence premises** or other land that **you** own, lease, rent, or use;
- (2) removing, restoring, or replacing polluted land, soil, or water; nor
- (3) removing covered property or debris of covered property contaminated by any **pollutant** or hazardous material unless the contamination occurred due to a Peril Insured Against at the **residence premises**.

- 5. **Fire Department Service Charge.** We will pay up to \$250 for your liability assumed by contract or agreement for fire department charges incurred when the fire department is called to save or protect covered property from a Peril Insured Against. **We** do not

cover fire department service charges if the property is located within the limits of the city, municipality or protection district furnishing the fire department response.

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

6. **Building Additions and Alterations.** Under Coverage C, and when no Coverage A — Dwelling Protection is provided, **we** cover the building improvements or installations made or acquired at **your** expense, to that part of the **residence premises** used exclusively by **you**. The limit of liability for this coverage will not be more than 10 percent of the limit of liability that applies to Coverage C.

Payment under this coverage reduces the Coverage C limit of liability by the amount paid.

7. **Loss Assessment.** **We** will pay up to \$1,000 for **your** share of any loss assessment charged during the policy period against **you** by a corporation or association of property owners. This only applies when the assessment is made as a result of each direct loss to property, owned by all members collectively, caused by a Peril Insured Against under Coverage A - Dwelling Protection. However, **we** do not pay any loss assessment for damage caused by earthquake or land shock waves or tremors before, during or after a volcanic eruption.

This coverage applies only to loss assessments charged against **you** as owner or tenant of the **residence premises**.

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

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

8. **Property Removed.** **We** insure covered property against direct loss from any cause while endangered by a Peril Insured Against and subsequently removed from **your residence premises**. Protection is limited to a 30-day period from the date of removal and applies on a pro rata basis to any property not removed. This coverage does not change the limit of liability that applies to the property being removed.
9. **Reasonable Repairs.** **We** will pay the reasonable cost **you** incur for necessary repairs made solely to protect covered property from further damage if a Peril Insured Against causes the loss. This coverage does not increase the limit of liability applying to the property being repaired.
10. **Trees, Shrubs and Other Plants.** **We** cover **your** trees, shrubs, plants or lawns on the **residence premises** for loss caused by fire or lightning only.

The limit of liability for this coverage will not be more than 5% of the Coverage A limit of liability or more than \$250 for any one tree, shrub, or plant. This does not increase the

limit of liability of Coverage A. **We** do not cover property grown for **business** purposes.

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

PERILS INSURED AGAINST

We insure for direct physical loss to property described in Coverage A – Dwelling and Coverage B – Other Structures. However, **we** do not insure loss:

1. involving collapse, other than as provided in Additional Coverages 2;
2. caused by:
 - a. freezing of a plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance, or by discharge, leakage or overflow from within the system or appliance caused by freezing. This exclusion applies only while the dwelling is vacant, unoccupied or being constructed unless **you** have used reasonable care to:
 - (1) maintain heat in the building; or
 - (2) shut off the water supply and drain the system and appliances of water;
 - b. freezing, thawing, pressure or weight of water, ice, hail, snow, or sleet whether driven by wind or not, to a:
 - (1) fence, pavement, patio or swimming pool;
 - (2) foundation, retaining wall or bulkhead;
 - (3) pier, wharf or dock; or
 - (4) gutter;
 - c. theft, including attempted theft and loss of property from a known place when it is likely that the property has been stolen;
 - d. wind, hail, ice, snow or sleet to:
 - (1) awnings, signs, or outdoor radio and television antennas and aerials including their lead-in wiring, masts or towers; or
 - (2) trees, shrubs, plants or lawns;
 - (3) structure, other than a building, including the supports and screens, with a roofline covering of cloth, metal, fiberglass or plastic, whether or not the structure is attached to a building;

- (4) screens, including their supports, around a pool, patio or other areas;
 - (5) fences, property line and similar walls, including seawalls;
 - (6) cabanas, gazebos, greenhouses, hothouses, pergolas, slathouses, trellises;
 - (7) outdoor equipment used to service the **residence premises**;
 - (8) structure, including the property in or on the structure, located in whole or in part in or over water.
- e. vandalism and malicious mischief, if the dwelling has been vacant for more than 30 consecutive days immediately before the loss. A dwelling being constructed is not considered vacant;
- f. constant or repeated seepage or leakage of water or steam over a period of weeks, months or years from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or from within a household appliance;
- g. (1) wear and tear, marring or scratching, or deterioration;
- (2) inherent vice or latent defect, mechanical breakdown;
- (3) the presence, growth, proliferation, spread, or any activity of rust, bacteria, mold, mildew, wet or dry rot, or any **fungi**, whether or not, in whole or in part:
- (a) caused by or resulting from;
 - (b) contributed to by; or
 - (c) aggravated by;
- any peril or cause of loss, regardless of whether such peril or cause of loss is covered by this policy, and regardless of whether any other peril or cause of loss contributed concurrently or in any sequence to such loss. This exclusion does not apply to Additional Coverage 3.
- (4) contamination, smog or smoke from agricultural smudging or industrial operations;
- (5) release, discharge or dispersal of contaminants or **pollutants**;
- (6) settling, cracking, shrinkage, bulging or expansion of driveways, pavement, patios, foundations, walls, floors, roofs or ceilings; or
- (7) birds, vermin, rodents, insects or domestic animals, whether or not, in whole or in part;

(a) caused by or resulting from;

(b) contributed to by; or

(c) aggravated by:

any peril or cause of loss, regardless of whether such peril or cause of loss is covered by this policy, and regardless of whether any other peril or cause of loss contributed concurrently or in any sequence to such loss.

If any of these (items G 1-7 above) cause water damage not otherwise excluded, from a plumbing, heating, air conditioning or automatic fire protective sprinkler system or household appliance, **we** cover loss caused by the water including the cost of tearing out and replacing any part of a building necessary to repair the system or appliance. **We** do not cover loss to the system or appliance from which this water escaped.

3. excluded under Exclusions.

COVERAGE C - PERSONAL PROPERTY

We insure for direct physical loss to the property described in Coverage C caused by a peril listed below unless the loss is excluded in the Exclusions.

1. **Fire or Lightning.**

2. **Explosion.** This peril does not include loss by explosion of steam boilers or steam pipes, if owned or leased by **you** or operated under **your** control.

3. **Wind or Hail.** This peril does not include loss:

- a. to the interior of a building or the property contained in a building caused by rain, snow, sleet, sand or dust unless the direct force of wind or hail damages the building causing an opening in a roof or wall and the rain, snow, sleet, sand or dust enters through this opening; or
- b. to the following property when outside of the building or attached to the building:
 - (1) awnings, signs or radio or television antennas or aerials, including lead-in wiring, masts or towers; or
 - (2) rowboats and canoes;

4. **Riot or civil commotion.**

5. **Aircraft,** including self-propelled missiles and spacecraft.

6. **Smoke**, meaning sudden and accidental damage from smoke. This peril does not include loss caused by smoke from agricultural smudging or industrial operations.
7. **Weight of Ice, Sleet or Snow**, meaning damage to a covered item caused by accumulation of ice, sleet or snow only but not hail, rain or other form of precipitation. This peril does not include loss to the following property when outside of the building or attached to the building:
 - a. carport cover, patio, patio cover, driveway, pavement, swimming pool, foundation, retaining wall, bulkhead, pier, wharf, or dock;
 - b. awnings;
 - c. rowboats and canoes;
 - d. fences, property line and similar walls, including seawalls.

8. **Breakage of glass or safety glazing material** which is part of a dwelling, building, storm door or storm window.

This peril does not include loss on the **residence premises** if the dwelling has been vacant for more than 30 consecutive days immediately before the loss. A dwelling being constructed or a mobile home or manufactured home being installed is not considered vacant.

9. **Falling objects**. This peril does not include loss to the inside of a building or property contained in a building unless the roof or an outside wall of the building is first damaged by a falling object. Damage to the falling object itself is not included.
10. **Accidental discharge or overflow of water or steam** from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or from within a household appliance. **We** also pay for tearing out and replacing any part of the building on the **residence premises** necessary to repair the system or appliance from which the water or steam escaped.

This peril does not include loss:

- a. to any covered property caused by constant or repeated seepage or leakage over a period of weeks, months or years;
- b. to any covered property caused by smog, or the presence, growth, proliferation, spread or any activity of rust, bacteria, mold, wet or dry rot, or **fungi**;
- c. on the **residence premises**, if the dwelling has been vacant or unoccupied for more than 30 consecutive days immediately before the loss;
- d. to the system or appliance from which the water or steam escaped;

- e. caused by or resulting from freezing except as provided in the peril of Freezing below; nor
 - f. on the **residence premises** caused by accidental discharge or overflow which occurs off the **residence premises**;
 - g. caused by overflow or backup of water in any form in gutters.
11. **Sudden and accidental tearing apart, cracking, burning or bulging** of steam or hot water heating system, an air conditioning or automatic fire protective sprinkler system, or an appliance for heating water.

This peril does not include loss to any covered property:

- a. caused by or resulting from freezing except as provided in the peril of freezing below;
 - b. caused by smog, or the presence, growth, proliferation, spread or any activity of rust, bacteria, mold, wet or dry rot, or **fungi**; or
 - c. caused by constant or repeated seepage or leakage over a period of weeks, months, or years.
12. **Freezing** of plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance, but not gutters.

This peril does not include loss:

- a. on the **residence premises** while the dwelling is vacant, unoccupied or being installed, unless **you** have used reasonable care to:
 - (1) maintain heat in the building; or
 - (2) shut off the water supply and drain the system and appliances of water.
 - b. to any covered property caused by constant or repeated seepage or leakage over a period of weeks, months or years;
 - c. to any covered property caused by smog, or the presence, growth, proliferation, spread, or any activity of rust, bacteria, mold, wet or dry rot, or **fungi**;
 - d. on the **residence premises** caused by accidental discharge or overflow which occurs off the **residence premises**.
 - e. caused by overflow or backup of water in any form in gutters.
13. **Vandalism or malicious mischief.** This peril does not include loss to property on the **residence premises** if the dwelling has been vacant for more than 30 consecutive

days immediately before the loss. A dwelling under construction or a mobile home or manufactured home being installed is not considered vacant.

Also, this peril does not include loss to any computer, computer system, network, hardware, program, **electronic data**, software, data, information repository, microchip, integrated circuit or similar device unless there are visible signs of physical damage to the exterior of the computer, equipment, computer system or non-computer equipment.

14. **Vehicles owned or operated by the insured or by a tenant of the residence premises**, resulting from actual physical contact of such a vehicle with covered property or with the building containing covered property. However, **we** do not cover loss to any outdoor equipment, fences, driveways, walks, trees, shrubs and plants, or retaining walls not constituting a part of a covered building.

EXCLUSIONS

We do not insure for loss caused directly or indirectly for any of the following. Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss.

1. **Ordinance or Law**, meaning enforcement of any ordinance or law regulating the construction, repair, or demolition of a building or other structure, unless specifically provided elsewhere under this policy.
2. **Earth Movement**, meaning earthquake including land shock waves or tremors before, during or after a volcanic eruption; landslide; mudflow; erosion, earth sinking, contracting, expanding, rising or shifting. However, if direct loss by fire or explosion ensues, then we will pay for the ensuing loss only.
3. **Water Damage**, meaning:
 - a. flood, whether natural or manmade, surface water, waves, tidal water, overflow of a body of water, or spray from any of these, whether or not driven by wind;
 - b. water or water-borne matter which backs up through sewers or drains or that overflows or is discharged from a sump, sump pump or related equipment; or
 - c. water or water-borne matter below the surface of the ground, including water which exerts pressure on or seeps or leaks through a building, sidewalk, driveway, foundation, swimming pool, or other structure.

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

4. **Power Failure or Power Interruption**, meaning the failure or interruption of power or other utility service if the failure or interruption takes place off the **residence premises**. But, if a Peril Insured Against ensues on the **residence premises**, **we** will pay only for that ensuing loss.

5. **Neglect**, meaning neglect of an **insured** to use all reasonable means to save and preserve property at and after the time of loss, or when property is endangered.

6. **War and Military Action Exclusion**

We will not pay for loss or damage caused by the following, listed below. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

- a. War, including undeclared civil war;
- b. Warlike action by a military force, including action to hinder or defend against an actual, expected, or threatened attack, by any government, sovereign, or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

If there is any action that comes within the terms of this exclusion and involves nuclear reaction or radiation or radioactive-contamination, then this War and Military Action Exclusion supersedes the Nuclear Hazard Exclusion.

7. **Terrorism Exclusion.** Regardless of the amount of damage and losses, this **Terrorism** Exclusion applies to any and all incidents of **terrorism**:

- a. that involve the use, release or escape of pathogenic or poisonous biological or chemical materials, or
- b. that could cause the release or escape of pathogenic or poisonous biological or chemical materials; or
- c. to any incident that directly or indirectly results in nuclear reaction or radiation or radioactive contamination.

We will not pay for loss or damage caused directly or indirectly by **Terrorism**, including action to hinder or defend against an actual, expected or threatened incident of **Terrorism**. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

But if **Terrorism** results in fire, **we** will pay for the loss or damage caused by that fire. However, this exception for fire applies only to direct loss or damage by fire to Covered Property.

With respect to any such activity that also comes within the terms of the War and Military Action Exclusion, that exclusion supersedes the **Terrorism** Exclusion.

In the event of an act of **Terrorism** that involves nuclear reaction or radiation, or radioactive contamination, this **Terrorism** Exclusion supersedes the Nuclear Hazard

Exclusion.

8. **Nuclear Hazard**, to the extent set forth in the Nuclear Hazard Clause of the Conditions.

9. **Intentional Acts**, meaning any loss arising out of any act committed:

- a. by or at the direction of any **insured**;
- b. with the intent to cause a loss; or
- c. in a domestic dispute between **insureds**, family members, or others.

10. **We** do not insure under any coverage for loss resulting from one or more of the items below:

- a. conduct, act, failure to act, or decision of any person, group, organization, or governmental body whether intentional, wrongful, negligent, or without fault;
- b. defect, weakness, inadequacy, fault or unsoundness in:
 - (1) planning, zoning, development surveying, siting;
 - (2) design, specifications, workmanship, construction, grading, compaction;
 - (3) materials used in construction or repair; or
 - (4) maintenance

of any property (including land, structures, or improvements of any kind) whether on or off the **residence premises**.

However, **we** do insure for any ensuing covered loss from items a. and b. unless the ensuing loss is itself a loss excluded by this section.

11. **We** do not insure for loss under any coverage regardless of whether one or more of the items listed in paragraph 10 above:

- a. directly or indirectly cause, contribute to or aggravate the loss; or
- b. occur before, at the same time, or after the loss or any other cause of the loss.

However, **we** do insure for ensuing covered loss from items 10a and 10b above unless the ensuing loss is itself a loss excluded by this policy.

12. **Asbestos and Lead Removal**. This policy does not insure covered property for damage, loss of use, or expenses arising from:

- a. actual or attempted removal of any asbestos material, lead pipes, lead paint, or any

material containing lead, unless the asbestos or lead pipes, lead paint, or any material containing lead, is itself damaged by a Peril Insured Against;

- b. demolition or increased cost of reconstruction, repair, or debris removal, attributable to the enforcement of any law, ordinance or regulation concerning asbestos material, lead paint, lead pipes, or any material containing lead;
- c. any governmental direction or request declaring that asbestos material, lead paint, lead pipes, or any material containing lead, present in, part of, or utilized by any undamaged portion of the **insured's** property can no longer be used for the purpose for which it was intended or installed and must be modified, covered, sealed, protected, or removed.

13. Pollutants and Pollution Exclusion. We do not insure for loss, cost, or expense:

- a. which would not have occurred in whole or in part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time, by any person, organization or governmental authority; and
- b. arising out of any:
 - (1) request, demand or order that any **insured** or others test for, monitor, clean-up, remove, remedy, repair, contain, treat, detoxify or neutralize, or in any other way respond to, or assess the effects of **pollutants**; or
 - (2) claim or suit by or on behalf of any person, organization or governmental authority for damages because of testing for, monitoring, cleaning up, removing, remedying, repairing, containing, treating, detoxifying or neutralizing, or in any other way responding to, or assessing the effects of **pollutants**.

14. We do not insure covered property for damage, loss of use, or expenses caused by radon gas, radium, any other radioactive substance, any gas, or any sound or light. **We** do not cover the cost of any investigations, fines, or other costs related to radon gas, radium, any other radioactive substance, or any other gas or any sound or light.

15. Prejudgment Interest. This policy does not pay prejudgment interest.

16. Collapse, other than as provided in Additional Coverages only.

17. Theft, unless provided for by an endorsement and an additional premium paid.

18. We do not cover loss to lawns, plants, shrubs or trees outside of buildings except as shown in Additional Coverages.

19. We do not cover the following loss or damage to Dwellings, Other Structures, or Personal Property unless shown as covered in Additional Coverages for:

- a. Wear and tear, marring or scratching, or deterioration;

- b. Inherent vice or latent defect;
- c. Mechanical breakdown;
- d. The presence, growth, proliferation, spread, or any activity of rust, bacteria, mold, mildew, wet or dry rot, or any **fungi**, whether or not, in whole or in part:

- (1) caused by or resulting from;

- (2) contributed to by; or

- (3) aggravated by;

any peril or cause of loss, regardless of whether such peril or cause of loss is covered by this policy, and regardless of whether any other peril or cause of loss contributed concurrently or in any sequence to such loss. This exclusion does not apply to Additional Coverage 3.

- e. Contamination, smog or smoke from agricultural smudging or industrial operations;
- f. Settling, cracking, shrinkage, bulging or expansion of pavement, patios, foundations, walls, floors, roofs or ceilings; or
- g. Birds, vermin, rodents, insects or domestic animals, whether or not, in whole or in part;

- (1) caused by or resulting from;

- (2) contributed to by; or

- (3) aggravated by:

any peril or cause of loss, regardless of whether such peril or cause of loss is covered by this policy, and regardless of whether any other peril or cause of loss contributed concurrently or in any sequence to such loss.

20. We do not insure for loss or damage arising directly or indirectly out of:

- a. loss of, alteration of, or damage to; or
- b. a reduction in the functionality, availability or operation of;

any computer, computer system, network, hardware, program, software, data, information, repository, microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of an **insured** or others.

- c. **We** will not cover, pay for, or reimburse **you** or anyone else for any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement, or supervision provided to correct, determine, prevent, rectify, or test for any actual, alleged or potential problems described in subparagraphs a. and b. above.
- d. **We** will pay for direct physical loss or damage to covered property caused by a Peril Insured Against, Section I, Coverage C – Personal Property. However, this exception does not apply to any loss or damage that is:
 - (1) otherwise excluded in Section I – Exclusions; or
 - (2) caused by the peril of **Vandalism or Malicious Mischief**, unless there are visible signs or physical damage to the exterior of such computer system, computer equipment or non-computer equipment.
- e. With respect to loss or damage excluded by this paragraph, if a peril listed in Section I – Perils Insured Against for Coverage C – Personal Property ensues, **we** will pay for the direct physical loss or damage caused by such ensuing peril.

21. **Collapse**, other than as provided in Additional Coverages.

CONDITIONS

A. This section includes **your** duties after a loss occurs and how claims are handled.

- 1. **Insurable Interest and Limit of Liability.** Even if more than one person has an insurable interest in the property covered, **we** will not be liable in any one loss:
 - a. to the **insured** for more than the amount of the **insured's** interest at the time of loss; or
 - b. for more than the applicable limit of liability.
- 2. **Your Duties After Loss.** In case of a loss to covered property, **you** must see that the following are done:
 - a. immediately notify the police or other appropriate law enforcement agency in any case of loss where a crime is suspected;
 - b. give prompt notice to **us** or **our** agent;
 - c. (1) protect the property from further damage;
 - (2) make reasonable and necessary repairs to protect the property;
 - (3) keep an accurate record of repair expenses; and

- (4) cooperate with **us** in the investigation and settlement of any claim;
 - d. prepare an inventory of damaged personal property showing the quantity, description, how, when, and where acquired, **actual cash value** and amount of loss. Attach all bills, receipts and related documents that justify the figures in the inventory;
 - e. as often as **we** reasonably require:
 - (1) allow **us**, or **our** designee(s) to inspect the damaged property;
 - (2) allow **us** to secure, and retain, at **our** expense, evidence relating to the loss;
 - (3) provide **us** with records and documents **we** request and permit **us** to make copies;
 - (4) allow **us** to obtain from **you** and any other person seeking coverage, separate recorded statements; and
 - (5) submit to examination(s) under oath and sign and swear to it;
 - f. send to **us**, within 60 days after **our** request, **your** signed, sworn proof of loss which sets forth, to the best of **your** knowledge and belief:
 - (1) the time and cause of loss; and
 - (2) the interest of the **insured** and all others in the property involved and all liens on the property; and
 - (3) other insurance, service agreements, or warranty provisions which may cover the loss; and
 - (4) changes in title or occupancy of the property during the term of the policy; and
 - (5) specifications of damaged buildings and detailed repair estimates; and
 - (6) the inventory of damaged personal property described in 2d above; and
 - (7) receipts for additional living expense incurred or records that support the fair rental value loss.
3. **Loss Settlement.** Covered property losses are settled as follows:
- a. (1) Personal property;
 - (2) Awnings, carpeting, household appliances, fences, property lines, sea

walls, outdoor equipment, outdoor antennas and swimming pools, whether or not attached to buildings; and

- (3) Other structures that are not buildings;
- (4) Buildings not permanently attached to, or otherwise forming part of the realty;

at **actual cash value** at the time of loss but not more than the amount required to repair or replace. **Actual cash value** will include consideration of fair market value, age, and condition of the item in question at the time of the loss.

- b. Buildings permanently attached to or otherwise forming a part of the realty, under Coverage A or B at replacement cost without deduction for depreciation, subject to the following:

- (1) If, at the time of loss, the amount of insurance in this policy on the damaged building is 80% or more of the full replacement cost of the building immediately before the loss, **we** will pay the cost to repair or replace, without deduction for depreciation, but not more than the least of the following amounts:
 - (a) the limit of liability under this policy that applies to the building;
 - (b) the replacement cost of that part of the building damaged for like construction and use on the same premises; or
 - (c) the necessary amount actually spent to repair or replace the damaged building.
- (2) If, at the time of loss, the amount of insurance in this policy on the damaged building is less than 80% of the full replacement cost of the building immediately before the loss, **we** will pay the greater of the following amounts, but not more than the limit of liability under this policy that applies to the building:
 - (a) the **actual cash value** of that part of the building damaged; or
 - (b) that proportion of the cost to repair or replace, without deduction for depreciation, that part of the building damaged, which the total amount of insurance in this policy on the damaged building bears to 80% of the replacement cost of the building.
- (3) To determine the amount of insurance required to equal 80% of the full replacement cost of the building immediately before the loss, do not include the value of:
 - (a) excavations, foundations, piers, or any supports which are below the

under-surface of the lowest basement floor;

- (b) those supports in (a) above which are below the surface of the ground inside the foundation walls, if there is no basement; and
 - (c) underground flues, pipes, wiring, and drains.
- (4) **We** will pay no more than the **actual cash value** of the damage, up to the policy limit, until actual repair or replacement is completed.
 - (5) **You** may disregard the replacement cost loss settlement provisions and make claim under this policy for loss or damage to buildings on an **actual cash value** basis. **You** may then make claim within 180 days after loss for any additional liability on a replacement cost basis.

We do not guarantee an exact decorative match in texture or color for any roofing, exterior or interior building material, furniture, or upholstery.

4. **Loss to a Pair or Set.** In case of loss to a pair or set **we** may elect to:

- a. repair or replace any part to restore the pair or set to its value before the loss; or
- b. pay the difference between **actual cash value** of the property before and after the loss;
- c. pay in any loss involving part of a series of panels or pieces the reasonable cost of:
 - (1) replacing or repairing the damaged part to match the remainder as closely as possible; or
 - (2) providing an acceptable decorative effect as may be necessary. However, **we** do not guarantee exact replacement availability. In the event of damage to a part, **we** are not liable for the value of or the repair or replacement of the entire series of panels or pieces.

5. **Glass Replacement.** Loss for damage to glass caused by a Peril Insured Against will be settled on the basis of replacement with safety glazing materials when required by ordinance or law.

6. **Appraisal.** If **you** and **we** fail to agree on the amount of loss, either one can demand that the amount of the loss be set by appraisal. If either makes a written demand for appraisal, each shall select a competent, independent appraiser and notify the other of the appraiser's identity within 20 days of receipt of the written demand. The two appraisers shall then select a competent, impartial umpire. If the two appraisers are unable to agree upon an umpire within 15 days, **you** or **we** can ask a judge of a court of record in the state where the **residence premises** is

located to select an umpire. The appraisers shall then set the amount of loss. If the appraisers submit a written report of an agreement to **us**, the amount agreed upon shall be the amount of the loss. If the appraisers fail to agree within a reasonable time, they shall submit their differences to the umpire. Written agreement signed by any two of these three shall set the amount of the loss. Each appraiser shall be paid by the party selecting that appraiser. Other expenses of the appraisal and the compensation of the umpire shall be paid equally by **you** and **us**.

7. **Other Insurance.** If a loss covered by this policy is also covered by other insurance, a service contract or a warranty provision, **we** will pay only the proportion of the loss that the limit of liability that applies under this policy bears to the total amount of insurance covering the loss.
8. **Suit Against Us.** No action can be brought against **us** under this policy unless the policy provisions have been complied with and the action is started within the time allowed by law.
9. **Our Option.** **We** may repair or replace any part of the property damaged or stolen with equivalent property. Any property **we** pay for or replace becomes **our** property at **our** option.
10. **Loss Payment.** **We** will adjust all losses with **you**. **We** will pay **you** unless some other person is named in the policy or is legally entitled to receive payment. Loss will be payable 60 days after **we**:
 - a. reach an agreement with **you**; or
 - b. receive **your** proof of loss and reach an agreement with **you**; or
 - c. there is an entry of a final judgment; or
 - d. there is a filing of an appraisal award with **us**.
11. **Abandonment of Property.** **We** need not accept any property abandoned to **us** by an **insured**.
12. **Mortgage Clause.** The word **mortgagee** includes trustee.

If a mortgagee is named in this policy, any loss payable under Property Coverages A or B will be paid to the mortgagee and **you**, as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of precedence of the mortgages.

If **we** deny **your** claim, that denial will not apply to a valid claim of the mortgagee caused by a Peril Insured Against, if the mortgagee:

- a. notifies **us** of any change in ownership, occupancy or substantial change in risk of which the mortgagee is aware;

- b. pays any premium due under this policy on demand if **you** have neglected to pay the premium; and
- c. submits a signed, sworn statement of loss within 60 days after receiving notice from **us** of **your** failure to do so. Policy conditions relating to Appraisal, Suit Against **us** and Loss Payment apply to the mortgagee.

If the policy is cancelled or not renewed by **us**, the mortgagee will be notified at least 10 days before the date cancellation or nonrenewal takes effect.

If **we** pay the mortgagee for any loss and deny payment to **you**:

- a. **We** are subrogated to all the rights of the mortgagee granted under the mortgage on the property; or
- b. At **our** option, **we** may pay to the mortgagee the whole principal on the mortgage plus any accrued interest. In this event, **we** will receive a full assignment and transfer of the mortgage and all securities held as collateral to the mortgage debt.

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

- 13. **No Benefit to Bailee.** **We** will not recognize any assignment or grant any coverage that benefits a person or organization holding, storing or moving property for a fee regardless of any other provision of this policy.

14. **Nuclear Hazard Clause.**

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

- 15. **Intentional Loss.** If **you** or any person insured under this policy causes or procures a loss to property covered under this policy for the purpose of obtaining insurance benefits, then this policy is void. **We** will not pay **you** or any other **insured** for this loss.

- 16. **Unearned Premium Clause.** If a loss under **our** policy is payable or has been

paid, the Company has the option to:

- a. reduce **your** coverages by any sum up to the amount of the loss and refund to **you** within 30 days of **our** notice to **you** of the reduction in coverage the pro rata unearned premium as of the time of the loss; or
- b. retain the unearned premium and maintain **your** policy without regard to the loss; or
- c. terminate **your** policy and within 30 days of **our** notice refund to **you** any pro rata unearned premium as of the time of the loss.

17. **Valuation Clause.** For the perils of fire and lightning, **you** and **we** agree that the value of the building described in this policy is, and hereby fix the amount of insurance to be carried on the building as, the amount shown for Coverage A - Dwelling, on the Declarations of this policy. These agreed values are established for insurance purposes only. At any date the building is under construction, the maximum amount of insurance shall be the proportion of the value of the building that the **actual cash value** of the building, on that date, bears to the value of the building when completed.

18. **Loss Deductible Clause.** In case of a loss to a covered item, the deductible stated on **your** latest Declarations will be applied per **occurrence**. The deductible will apply separately to each covered item. It will be deducted from the amount of the covered loss. This loss deductible clause shall not apply to the Fire Department Service Charge, Arson Award, Loss Assessment, or Trees, Shrubs and other Plants.

19. **Change in Ownership, Renting or Leasing.** This policy does not apply if:

- a. there is a change in ownership of the dwelling to any other person or organization;
- b. **you** rent or lease an owner occupied dwelling to a person, other than a child or parent of the named **insured**, unless **you** notify **us** in writing of the change, rental or lease within 30 days.

20. **Report Increased Values.** **You** agree to notify **us** within 90 days of the start of any building valued at \$5,000 or more or any additions to or remodeling of buildings that increases their value by \$5,000 or more, and pay any additional premium for the increased value. If **you** fail to notify **us** within 90 days, or pay the additional premium, **we** will not cover any increased values.

B. The following Conditions also apply to this policy.

- 1. **Policy Period.** This policy applies only to loss which occurs during the policy period.

2. **Concealment or Fraud.** If **you** or any other **insured** under this policy has intentionally concealed or misrepresented any material fact or circumstance, or made false statements or engaged in fraudulent conduct relating to this insurance, whether before or after a loss, then this policy is void as to **you** and any other **insured**.
3. **Liberalization Clause.** If **we** make a change which broadens coverage under this edition of **our** policy without additional premium charge, that change will automatically apply to **your** insurance as of the date **we** implement the change, provided that this implementation date falls within 60 days prior to or during the policy period stated in the Declarations.

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

- a. a subsequent edition of this policy; or
 - b. an amendatory endorsement.
4. **Waiver or Change of Policy Provisions.** A waiver or change of a policy provision must be in writing by **us** to be valid. **Our** request for an appraisal or examination will not waive any of **our** rights.
 5. **Membership.** Membership in the Farm Bureau Federation is a condition precedent to coverage and that coverage may be canceled or nonrenewed for failure to maintain membership in the Farm Bureau Federation.
 6. **Cancellation.**
 - a. **You** may cancel this policy at any time by returning it to us or by notifying **us** in writing of the future date cancellation is to take effect.
 - b. When the policy is cancelled, the premium for the period from the date of cancellation to the expiration date will be refunded. When **you** request cancellation, or if **we** cancel, the return premium will be pro rata.
 - c. If the premium is not refunded with the notice of cancellation or when this policy is returned to **us**, **we** will refund it within a reasonable time after the date cancellation takes effect.
 - d. **We** may cancel this policy by notifying **you** in writing. This cancellation notice may be delivered to **you**, or mailed to **you** at **your** mailing address shown in the Declarations. Proof of mailing will be sufficient proof of notice. The written notification will be:
 - (1) 10 days in advance of the date of cancellation if the reason is for nonpayment of:

(a) any premium due **us**; or

(b) annual membership dues to the Farm Bureau Federation;

(2) 30 days in advance of the date of cancellation for the reasons below:

(a) misrepresentation, fraud or withholding of material when the policy was obtained or when a claim was submitted;

(b) substantial change or increased hazard in the risk we originally agreed to insure;

(c) substantial breaches of **your** contractual duties, conditions or warranties;

(d) loss of **our** reinsurance covering a significant portion of **your** policy, or if the continuation of **your** policy would imperil **our** solvency or place **us** in violation of the insurance laws of this state.

(e) any other reason lawfully permitted;

e. Subsection (2) (a) through (d) above do not apply to this policy if it has been in effect for less than 90 days and is not a renewal of a previously existing policy. Policies in effect for less than 90 days may be cancelled for any reason by furnishing 30 days written notice of cancellation, unless the reason is for nonpayment of:

(1) any premium due **us**; or

(2) annual membership dues to the Farm Bureau Federation;

in which case **we** will furnish 10 days written notice.

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

8. **Automatic Termination.** If **we** offer to renew or continue this policy and **you** or **your** representative do not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that **you** have not accepted **our** offer. Then, a new application, subject to underwriting rules and payment of premium, may be required to obtain new coverage.

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

10. **Subrogation.** If **we** make a payment under this policy and the person to or for whom payment was made has a right to recover damages from another, **we** shall be subrogated to that right. That person shall:
- a. do whatever is necessary to enable **us** to exercise **our** rights; and do nothing after loss to prejudice them;
 - b. reimburse **us** to the extent of **our** payment if a recovery from another person or party responsible for the loss has been made; and
 - c. be required to repay **us** if any settlement or judgment duplicates **our** payments.
11. **Death.** If any person named in the Declarations or the spouse, if a resident of the same household, dies:
- a. **we** insure the legal representative of the deceased but only with respect to the premises and property of the deceased covered under the policy at the time of death;
 - b. **insured** includes, with respect to **your** property, the person having proper temporary custody of the property until appointment and qualification of a legal representative.
12. **Payment of Premium.** Checks in payment of **your** premium are accepted subject to collection. If a check is returned to **us** uncollected for any reason, **your** premium is considered unpaid. If the check **you** gave **us** for payment of any premium due is returned unpaid, **we** are entitled to collect a lawful bad check fee. This fee is not considered premium and **your** payment of it does not reinstate the policy or provide any past or future coverage.
- If the check **you** gave **us** for payment of any premium due is returned unpaid, **we** are entitled to collect a lawful bad check fee. This fee is not considered premium and **your** payment of it does not reinstate this policy or provide any past or future coverage.
13. **Audit and Inspection Clause.** At our option, **we** may inspect **your** property and operations at any time. **We** do not assume any liability by exercising **our** right to inspect or audit. By **our** making an inspection or audit, **we** make no representation that **your** property or operations are safe, not harmful to health, or comply with any law, rule or regulation.
14. **Grace Period.** This grace period applies only to the premium due at the renewal inception date and does not apply to any subsequent payments due on your part of any installment or premium finance plan, nor any additional premium due to a policy change after renewal. If **your** premium due for renewal (including unpaid membership fees) is received by **the Company** within 15 days, exclusive of the

due date, **your** policy will provide continuous protection without a lapse in coverage.

15. **Fair Credit Reporting Act Statement.** At our option, we may conduct a credit investigation or obtain credit information on **you**, any **insured** or future **insured**, under this policy. This report will be used for underwriting purposes to determine if an offer of coverage will be made; if coverage may continue; or to determine rates, terms, or any other condition.

MUTUAL POLICY CONDITIONS

Applies only to South Carolina Farm Bureau Mutual Insurance Company

This policy is issued by a mutual company having special regulations lawfully applicable to

its organizations, membership, policies or contracts of insurance, of which the following shall apply to and form a part of this policy:

By virtue of this policy, the policyholder is a member of the Company. Each member shall be entitled to cast only one vote at all meetings of the Company. This vote may be in person or by proxy.

This insured is hereby notified that maintaining membership in the Farm Bureau Federation is a condition precedent to insurance coverage under this policy.

The policyholder shall participate in the return of unused premiums (dividends) to the extent and on the conditions determined, fixed and declared by the Board of Directors in accordance with the law.

This policy is Nonassessable. The holder of this policy is not subject to any contingent liability, nor liable to assessment.

The policyholder is hereby notified that by virtue of this policy he is a member of the South Carolina Farm Bureau Mutual Insurance Company and that the bylaws of the Company fix the annual meeting at 12:00 o'clock Noon on the last Thursday in October of each year at the Company's Home Office.

IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized agent of this Company.

President

Secretary

PARTICIPATING CONDITIONS

For Policies Issued in Palmetto Casualty Insurance Company Only.

While this policy is in force, the named insured is entitled to share in the distributable net

earnings and savings of this **Company** in accordance with the dividends declared by the Board of Directors on this and like policies.

IN WITNESS WHEREOF, this **Company** has caused this policy to be signed by its President and Secretary and countersigned on the **Declarations** page by a duly authorized representative of this **Company**.

President

Secretary

PARTICIPATING CONDITIONS

For Policies Issued in Southern Farm Bureau Casualty Insurance Company Only.

While this policy is in force, the named insured is entitled to share in the distributable net earnings and savings of this **Company** in accordance with the dividends declared by the

Board of Directors on this and like policies.

IN WITNESS WHEREOF, this **Company** has caused this policy to be signed by its President and Secretary and countersigned on the **Declarations** page by a duly authorized representative of this **Company**.

President

Secretary

DRIGGERS

TRAVELERS

May 8, 2009

Policy Number 984761288 633 1

Policy Period 05/07/09 - 05/07/10

12:01 AM STANDARD TIME AT THE RESIDENCE PREMISES

ARTHUR MCKENZIE
PO BOX 1533
LAKE CITY SC 29560

Welcome to Travelers!

Welcome!

Thank you for choosing Travelers for your homeowners insurance. We truly appreciate your business, and we're always available to assist you with claims, questions or additional insurance needs.

QUESTIONS? CONTACT US!

Policy questions or changes.	843.374.8539
Claim Service	1.800.CLAIM33
	1.800.252.4633
Billing and Payment Information.	1.877.485.0832
Online Service.	mytravelers.com

The enclosed, personalized policy package was created just for you. You will find important documents related to your Travelers policy and coverage:

Your New Insurance Policy, which includes your Declarations, policy form and endorsements.
Please take a moment to review these important materials, especially your Declarations Page, which shows the coverages and limits you have selected.

24/7/365 Claim Service - Doing More to Get Your Home Back In Order

If you need us, we'll be there. Just call our toll-free claim service number 1.800.252.4633 (1.800.CLAIM33) 24 hours a day, 365 days a year. We have highly trained representatives nearby, ready to make the claim process as easy as possible for you.

On behalf of MOORE & ASSOCIATES, we look forward to serving you.

Sincerely,



Joseph Lacber
Chief Executive Officer
Personal Lines

P.S. We offer other coverages designed to protect your assets, including car insurance, valuable items, additional liability (for lawsuits), boat and yacht, flood, and identity theft protection. Contact your agent for more information.

PL-12746 7-06

Water

Water

Everywhere ...

Am I protected from Flood? PROBABLY NOT!

Flooding occurs in EVERY state! Many people find out too late that they are at risk for flooding, and even worse that their property insurance doesn't cover flood damage.

- Your Homeowners policy DOES NOT cover flood loss to your home and contents.
- In certain areas, the chance of a flood loss is 25% greater than a loss due to a fire during a 30-year mortgage.
- Six out of every ten declared disasters involve flooding!
- Homes in areas where there is new construction or where there have been other events, such as forest fires, may be in greater danger than in the past because of changes to the land around them.
- 25% of all floods occur outside of a high-risk flood area.
- Federally backed mortgages In certain areas require flood insurance policies for the life of the mortgage.

To ensure that your property and belongings are protected, call your Independent Insurance agent at (843) 374-8539.

Even if you already have a flood policy, you may want to discuss coverages with your agent to ensure that your policy is up to date.



PL-8206 Rev. 5-03

TRAVELERS 

Your privacy . . . Is our concern

WHAT WE MEAN WHEN WE TALK ABOUT "PRIVACY"

Your privacy is important to us. When we sell an insurance policy to a person we need information about the person or property that we're insuring. We consider this private and have taken steps to keep it confidential.

We want you to know about our privacy policy. The privacy policy tells you the kinds of information we get about you, where we get it, and with whom, if anyone, we may share it.

This brochure describes our privacy policy, procedures and practices for individuals who seek or get auto, home and other personal liability and property insurance for personal, family or household needs.

WHAT KIND OF INFORMATION WE HAVE AND WHERE WE GET IT

You give us most of what we need in the application process. To make sure what we have is correct we may need to check with you by phone or mail.

You may be asked to give us more details in writing or over the phone. Plus, we may receive and check your past insurance claims from insurance support organizations or your former insurers.

As allowed by law, we may ask for credit and other consumer reports from consumer reporting agencies concerning your application for insurance or any renewal of insurance. Information given to us by an insurance support organization, including consumer reporting agencies may be retained by them and disclosed to other persons.

For auto insurance, we often get a report of accidents or convictions from your State Motor Vehicle Department. We get these reports through an independent reporting company. We may also check information from government agencies or independent reporting companies. This helps us correctly rate and price your policy.

For home, building, or boat insurance, we or an inspector from an independent company may visit the property to inspect and report on its condition. In some cases, pictures may be taken. This allows us to check the estimate we have of your property's value. If we need more details about the property or the alarm you've installed, we may need to enter your property to finish the inspection. We would contact you before entering your property.

As a part of our application and underwriting process, in most states, we also order an Insurance Score based on credit history. We use the Score, information you give us, and other consumer reports for underwriting and the price we will charge. If we receive corrected personal information from a consumer reporting agency, we will re-evaluate you.

Once you're insured with us, your file may contain details about your policy(ies). This may include bill payments or claim history. A claim representative may comment, for example, on the condition and use of the insured property. We may also keep a police report if one was issued.

Sometimes we need to know about your health. For example, if we need to know whether a physical limitation will affect your ability to drive, we would ask you to sign a form allowing your personal doctor to answer any question we may have.

WHO HAS ACCESS TO THIS INFORMATION

We keep what we collect about you in our files. Our policies and procedures protect your personal information. We have physical, electronic and procedural safeguards in place.

We do not give or sell our customers' personal information to others for marketing purposes. You don't have to ask us to keep your information private because we do not give it, unless allowed.

We will use information about you to sell you insurance, service your insurance and settle claims. We may give the information to other persons or companies to help us manage or service our business. When we do, we require them to use it only for the reasons we gave it to them.

We may give, without your past permission and only if allowed by law, information about you held in our files to certain persons or organizations such as:

- Your agent or broker
- Our affiliated property and casualty insurance companies
- An independent claim adjuster or investigator

- Persons or organizations that conduct scientific research, including actuarial or underwriting studies, provided that no individual may be identified in the studies
- An insurance support organization, including consumer reporting agencies
- Another insurer in order to prevent or prosecute fraud

Also, on rare occasions, we may be required to share this information:

- With a State Insurance Department or other governmental agency, if required by federal, state or local laws
- If ordered by a summons, court order, search warrant or subpoena
- To protect our own legal interests, or in case of suspected fraud or other illegal activities.

HOW TO FIND OUT WHAT INFORMATION WE HAVE ABOUT YOU

If you have any questions about what we have in your file please write to us. When we receive your written request, we will respond within thirty (30) business days. We will let you know if we've given any information about you to anyone in the past. If we asked for a consumer report we will tell you the name and address of the consumer reporting agency.

You may also see and copy your file (except for certain documents about claims and lawsuits). If you believe any of our information is wrong we'll check it out and if we agree there was an error, we'll correct it. If we don't agree, you're still allowed to file a letter with your comments. We'll send the correction or letter to anyone who received or will receive the original information.

If you have any questions about the right of access to or correction of your file, we'll be happy to review our procedures with you. Please contact:

Privacy Coordinator
KNOXVILLE - 412
PO BOX 59059
KNOXVILLE TN 37950

WHEN YOU WRITE, PLEASE BE SURE TO TELL US YOUR:

- Name
- Address
- Policy number
- Phone number and the best time of the day for us to call you

Please include a copy (not the original) of personal ID, such as your driver's license.

WE THANK YOU FOR LETTING US SERVE YOUR INSURANCE NEEDS.

This notice is effective July 2006 and is given by Travelers Indemnity Company, and its property and casualty insurance affiliates, members of the Travelers group of companies. This notice applies to current and former customers and may be amended at any time. The amended notice will be sent to customers and will also be placed on Travelers web sites.

A statement concerning our use of Insurance Score is available upon request for Oregon residents.

NOTICE

Thank you for trusting us as your insurance company. We are committed to your satisfaction and providing you with a competitive rate. Many factors are taken into account to rate insurance, including a credit based insurance score. We recently accessed data from the consumer reporting agency(ies) listed below to help price your policy. The consumer reporting agency that provides information used to develop your insurance score was unable to calculate an insurance score for you. In part, based on this information, you did not receive our lowest rate. You did receive a competitive and accurate price reflecting your individual characteristics.

The consumer reporting agency(ies) contact information is:

Insurance Score (Credit History) Information:
TransUnion Corporation - Consumer Relations
2 Baldwin Place, P.O. Box 1000
Chester, PA 19022
1-800-888-4213
www.transunion.com/direct

Remember:

- You have the right to obtain a free copy of the consumer report from the agency(ies) listed above. You may do so by contacting the agency within 60 days of receiving this notice.
- You also have the right to dispute with the consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency(ies). You should contact the agency to discuss any information in the report.
- The consumer reporting agency(ies) did not make the pricing determination and cannot answer questions regarding your policy.

To learn more about how your insurance score relates to your insurance policy please contact our Insurance Score Resource Center at 1-800-550-7717. For any other questions please contact your Travelers agent or representative.



PL-11748 11-08

IMPORTANT NOTICE

SOUTH CAROLINA POLICYHOLDER NOTICE REGARDING YOUR HOMEOWNERS PREMIUM

South Carolina law requires that we show you the portion of your premium allocated to wind/hail coverage versus non-wind/hail coverage. You may determine the percentage of your policy premium allocated to wind/hail coverage by first referring to the enclosed Declarations page and finding your policy form shown in the "Mandatory Forms and Endorsements" area on the Declarations. Also, on the Declarations find the territory number assigned to the territory where your residence is located. The territory number is shown in the "For Your Information" area.

With this information, you can determine from the chart below the percentage of your policy premium allocated to wind/hail coverage.

Wind/Hail Percentage by Policy Form

Territory Range	HO-2	HO-3	HO-4	HO-6	HV-3	HV-6
1 - 25	73%	73%	63%	50%	74%	43%
26 - 50	67%	67%	56%	43%	67%	36%
51 - 75	64%	64%	51%	39%	64%	33%
76 - 100	64%	64%	44%	39%	64%	33%
101 - 125	62%	62%	39%	40%	63%	34%
126 - 150	63%	63%	34%	41%	63%	35%
151 - 175	62%	62%	27%	41%	62%	35%
176 - 200	56%	56%	23%	36%	57%	30%
201 - 225	49%	49%	19%	31%	50%	26%
226 - 250	47%	47%	16%	26%	48%	22%
251 - 275	40%	40%	13%	23%	41%	19%
276 - 300	38%	38%	12%	21%	38%	18%
301 - 325	27%	27%	5%	9%	27%	8%
326 - 350	25%	25%	5%	9%	26%	8%
351 - 375	25%	25%	4%	9%	26%	8%
376 - 400	25%	25%	4%	8%	26%	8%
401 - 425	26%	26%	4%	9%	27%	8%
426 - 450	26%	26%	4%	9%	26%	8%
451 - 475	26%	26%	4%	9%	26%	8%
476 - 500	25%	25%	4%	9%	25%	8%
501 - 525	25%	25%	4%	9%	26%	8%
526 - 550	26%	26%	4%	9%	27%	8%
551 - 575	25%	25%	4%	9%	26%	8%
576 - 579	36%	36%	4%	9%	36%	8%

Should you have any questions about your wind/hail premium or your policy, please contact your agent or insurance representative.

IMPORTANT BILLING NOTICE

This notice contains important information about our billing options and fees.

You have chosen to pay your insurance premium in monthly installments and will be billed by mail. Please note that a service charge of \$6.00 will apply per installment. Other charges that may apply include a \$10.00 late charge and a \$25.00 fee for payments returned by your bank. If a payment is late we may require the total balance on your account be paid, in order to continue coverage.

If your billing needs change, we offer several ways to pay your premium:

<u>Bill Plan</u>	<u>Monthly</u>	<u>Lump Sum</u>
Electronic Funds Transfer (EFT)	No Charge	Not Currently Available
Recurring Credit Card (RCC)	No Charge	No Charge
Bill by Mail	\$ 6.00	No Charge
Late Charge: \$10.00 per occurrence		
Payments returned by your bank: \$25.00 per occurrence		

Visit www.amp.travelers.com if you would like to enroll in our Electronic Funds Transfer (EFT) or Recurring Credit Card (RCC) payment plan.

If you have multiple policies with us you may be able to combine those policies into a single billing account. If you have selected one of our monthly billing options, and you combine your policies into a single billing account, you will be charged just one service charge per installment, and not per individual account.

To add this policy to an existing billing account or if you have other questions about this notice, please call your insurance representative at (843)374-8539.

COVHO3



Homeowners Policy Booklet

from Travelers

Especially for:
ARTHUR MCKENZIE

Prepared by:
MOORE & ASSOCIATES



SOUTH CAROLINA
HOMEOWNERS - SPECIAL FORM HO-3 (10-06)

The Contents of This Booklet

1. Your Declarations:

A summary of your coverages, amounts of insurance, and premiums for those coverages under the policy.

2. Homeowners Policy:

The policy contract describing coverages, rights, and obligations.

3. Endorsements:

Additional coverages or policy provisions applicable to your policy.

4. Important Notices:

Information required by your state but not part of your policy provisions.



NEW BUSINESS DECLARATIONS

Homeowners Policy

INSURED AND AGENT INFORMATION

(Named Insured)
Name and Mailing Address

ARTHUR MCKENZIE

PO BOX 1533

LAKE CITY SC 29560

Agent Information

MOORE & ASSOCIATES

PO BOX 9

LAKE CITY, SC 29560

The Residence premises is located at

200 W HIGHWAY 378 BYP

LAKE CITY SC 295604426

POLICY INFORMATION

Homeowners Policy No.

984761288 633 1

Policy Period

05/07/09 - 05/07/10 12:01 A.M.

Standard Time at the residence premises

Your Insurer

The Travelers Home and Marine Insurance Company

One of The Travelers Property Casualty Companies

One Tower Square, Hartford, CT 06183

For Claim Service Call

1-800-CLAIM33

For Policy Service Call

(843) 374-8539

TOTAL POLICY PREMIUM

\$ 784.00

This is not a bill; you will be invoiced separately.


Continued on next page

412/08X205

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TRAVELERS
POLICY COVERAGES AND LIMITS OF LIABILITY

	LIMIT
Section I - Property Coverages	
A - DWELLING.....	\$ 287,000
B - OTHER STRUCTURES.....	\$ 28,700
C - PERSONAL PROPERTY.....	\$ 200,900
D - LOSS OF USE.....	\$ 86,100

LIMITED FUNGI, OTHER MICROBES OR ROT REMEDIATION

Section I - Property Coverage.....	\$ 5,000
------------------------------------	----------

Section II - Liability Coverages

E - Personal Liability (Bodily Injury and Property Damage) Each Occurrence..	\$ 100,000
F - Medical Payments to Others Each Person.....	\$ 1,000

POLICY SAVINGS AND DEDUCTIBLES**Your Savings**

The following credits or discounts reduced your premium: Account Discount,
Loss Free Discount

Deductibles	DEDUCTIBLE
Section I Property Coverages Deductible (All Perils).....	\$ 1,000

In case of loss under section I, only that part of the loss over the stated deductible is covered.

OPTIONAL ENDORSEMENTS AND COVERAGES

	LIMIT	PREMIUM
Optional Endorsements		
H0-290 (06-06) Personal Property Replacement Cost.....		Included*
Loss Settlement		

MANDATORY FORMS AND ENDORSEMENTS

H0-3 (10-06) Homeowners 3 Special Form
H0-300 SC (12-08) Special Provisions - South Carolina

Continued on next page



The Declarations with your Homeowners Policy, HO-3 (10-06), and the optional Endorsements and coverages listed above, form your Homeowners Insurance Policy.

"Note: The additional cost for any optional endorsement or coverage shown as "Included" is contained in the Total Policy Premium amount.

For Your Information

The insurable value of the insured premises is \$287,000.

South Carolina law requires that we provide you with the following statement:
The insurer can cancel this policy for which you are applying without cause during the first 120 days. That is the insurer's choice. After the first 120 days, the insurer can only cancel this policy for reasons stated in the policy.

Your rating territory is 00525.

This is not a bill. You will be billed separately for this transaction.

For information about how Travelers compensates independent agents and brokers, please visit www.Travelers.com or call our toll free telephone number 1-866-904-8348. You may also request a written copy from Marketing at One Tower Square, 2GSA, Hartford, Connecticut 06183.

Thank you for insuring with Travelers. We appreciate your business. If you have any questions about your insurance, please contact your agent or representative.

These declarations with policy provisions HO-3 (10-06) and any attached endorsements form your Homeowners Insurance Policy. Please keep them with your policy for future reference.

Countersignature:

412/08X205

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YOUR HOMEOWNERS POLICY QUICK REFERENCE

	DECLARATIONS PAGE Your Name Location of Your Residence Policy Period Policy Coverages Limits of Liability Deductible Amounts Beginning On Page AGREEMENT 1 DEFINITIONS 1
SECTION I PROPERTY COVERAGES	COVERAGES 3 Coverage A - Dwelling 3 Coverage B - Other Structures 3 Coverage C - Personal Property 3 Coverage D - Loss of Use 5 Additional Coverages 5 PERILS INSURED AGAINST 10 EXCLUSIONS 12 CONDITIONS 14 Duties After Loss 14 Loss Settlement 15 Loss Deductible 16 Policy Period 17
SECTION II LIABILITY COVERAGES	COVERAGES 17 Coverage E - Personal Liability 17 Coverage F - Medical Payments to Others 17 ADDITIONAL COVERAGES 18 EXCLUSIONS 19 CONDITIONS 23 Limit of Liability 23 Duties After Occurrence 23 Policy Period 23
SECTION I and SECTION II CONDITIONS	CONDITIONS 24 Cancellation 24 Nonrenewal 24

HO-3 (10-06)

HOMEOWNERS 3 – SPECIAL FORM**AGREEMENT**

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

DEFINITIONS

in this policy, "you" and "your" refer to the named "insured" shown in the Declarations and the spouse if a resident of the same household. "We", "us" and "our" refer to the company providing this insurance. In addition, certain words and phrases are defined as follows:

1. "Aircraft Liability", "Hovercraft Liability", "Motor Vehicle Liability" and "Watercraft Liability", subject to the provisions in b. below, mean the following:
 - a. Liability for "bodily injury" or "property damage" arising out of the:
 - (1) Ownership of such vehicle or craft by an "insured";
 - (2) Maintenance, occupancy, operation, use, loading or unloading of such vehicle or craft by any person;
 - (3) Entrustment of such vehicle or craft by an "insured" to any person;
 - (4) Failure to supervise or negligent supervision of any person involving such vehicle or craft by an "insured"; or
 - (5) Vicarious liability, whether or not imposed by law, for the actions of a child or minor involving such vehicle or craft.
 - b. For the purpose of this definition:
 - (1) Aircraft means any contrivance used or designed for flight, except model or hobby aircraft not used or designed to carry people or cargo;
 - (2) Hovercraft means a self-propelled motorized ground effect vehicle and includes, but is not limited to, flarecraft and air cushion vehicles;
 - (3) Watercraft means a craft principally designed to be propelled on or in water by wind, engine power or electric motor; and
 - (4) Motor vehicle means a "motor vehicle" as defined in 9, below.
2. "Bodily injury" means bodily harm, sickness or disease, including required care, loss of services and death that results.
3. "Business" means:
 - a. A trade, profession or occupation engaged in on a full-time, part-time or occasional basis; or
 - b. Any other activity engaged in for money or other compensation, except the following:
 - (1) Volunteer activities for which no money is received other than payment for expenses incurred to perform the activity;
 - (2) Providing home day care services for which no compensation is received, other than the mutual exchange of such services; or
 - (3) Providing home day care services to a relative of an "insured".
4. "Employee" means an employee of an "insured", or an employee leased to an "insured" by a labor leasing firm under an agreement between an "insured" and the labor leasing firm, whose duties are other than those performed by a "residence employee".
5. "Fuel system" means:
 - a. One or more containers, tanks or vessels which have a total combined fuel storage capacity of 100 or more U.S. gallons; and:
 - (1) Are, or were, used to hold fuel; and
 - (2) Are, or were, located on any one location;
 - b. Any pumping apparatus, which includes the motor, gauge, nozzle, hose or pipes that are, or were, connected to one or more containers, tanks or vessels described in Paragraph a.;

HO-3 (10-06)

- c. Filler pipes and flues connected to one or more containers, tanks or vessels described in Paragraph a.;
- d. A boiler, furnace or a water heater, the fuel for which is stored in a container, tank or vessel described in Paragraph e.;
- e. Fittings and pipes connecting the boiler, furnace or water heater to one or more containers, tanks or vessels described in Paragraph a.;
- f. A structure that is specifically designed and built to hold escaped or released fuel from one or more containers, tanks or vessels described in Paragraph a.

A "fuel system" does not include any fuel tanks that are permanently affixed to a motor vehicle or watercraft owned by an "insured", used for powering the motor vehicle or watercraft and not used at any time or in any manner for "business".

6. "Fungi"

- a. "Fungi" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by "fungi".
- b. Under Section ii, this does not include any "fungi" that are, are on, or are contained in, a product or goods intended for consumption.

7. "insured" means:

- a. You and residents of your household who are:
 - (1) Your relatives; or
 - (2) Other persons under the age of 21 and in the care of any person named above.
- b. A student enrolled in school full-time, as defined by the school, who was a resident of your household before moving out to attend school, provided the student is under the age of:
 - (1) 24 and your relative; or
 - (2) 21 and in your care or the care of a person described in a.(1) above; or
- c. Any Additional insured named in the Declarations, but only with respect to Coverages A, B, E and F and only for the "residence premises".
- d. Under Section ii:
 - (1) With respect to animals or watercraft to which this policy applies, any person or organization legally responsible for these animals or watercraft which are owned by

you or any person included in a. or b. above. "insured" does not mean a person or organization using or having custody of these animals or watercraft in the course of any "business" or without consent of the owner; or

(2) With respect to any vehicle to which this policy applies:

- (a) Persons while engaged in your employ or that of any person included in a. or b. above; or
- (b) Other persons using the vehicle on an "insured location" with your consent.

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

8. "insured location" means:

- a. The "residence premises";
- b. The part of other premises, other structures and grounds used by you as a residence and:
 - (1) Which is shown in the Declarations; or
 - (2) Which is acquired by you during the policy period for your use as a residence;
- c. Any premises used by you in connection with a premises described in a. and b. above;
- d. Any part of a premises:
 - (1) Not owned by an "insured"; and
 - (2) Where an "insured" is temporarily residing;
- e. Vacant land, other than farm land, owned by or rented to an "insured";
- f. Land owned by or rented to an "insured" on which a one or two family dwelling is being built as a residence for an "insured";
- g. Individual or family cemetery plots or burial vaults of an "insured";
- h. Any part of a premises occasionally rented to an "insured" for other than "business" use;
- i. Any premises owned by you and rented to others for use as a residence by not more than four families, if shown in the Declarations as an ADDITIONAL RESIDENCE RENTED TO OTHERS; or
- j. Any other structure on the "residence premises" rented to others as a private residence for which a limit of liability is shown in the

HO-3 (10-06)

Declarations for STRUCTURES RENTED TO OTHERS.

9. "Motor vehicle" means:
- a. A self-propelled land or amphibious vehicle; or
 - b. Any trailer or semi-trailer which is being carried on, towed by or hitched for towing by a vehicle described in a. above.
10. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results during the policy period, in:
- a. "bodily injury"; or
 - b. "property damage".
11. "Property Damage" means physical injury to, destruction of, or loss of use of tangible property.
12. "Residence employee" means:
- a. An employee of an "insured", or an employee leased to an "insured" by a labor leasing firm

under an agreement between an "insured" and the labor leasing firm, if the employee's duties are related to the maintenance or use of the "residence premises", including household or domestic services; or

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

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

13. "Residence premises" means:

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

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

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

SECTION I - PROPERTY COVERAGES**COVERAGE A - DWELLING**

1. We cover:
- a. The dwelling on the "residence premises" shown in the Declarations, including structures attached to the dwelling; and
 - b. Materials and supplies located on or next to the "residence premises" used to construct, alter or repair the dwelling or other structures on the "residence premises".
2. We do not cover land, including land on which the dwelling is located.

of liability is shown in the Declarations for STRUCTURES RENTED TO OTHERS;

- c. Other structures from which any "business" is conducted; or
- d. Other structures used to store "business" property. However, we do cover a structure that contains "business" property solely owned by an "insured" or a tenant of the dwelling provided that "business" property does not include gaseous or liquid fuel, other than fuel in a permanently installed fuel tank of a vehicle or craft parked or stored in the structure.

COVERAGE B - OTHER STRUCTURES

1. We cover other structures on the "residence premises" set apart from the dwelling by clear space. This includes structures connected to the dwelling by only a fence, utility line, or similar connection.
2. We do not cover:
- a. Land, including land on which the other structures are located;
 - b. Other structures rented or held for rental to any person not a tenant of the dwelling, unless used solely as a private garage. However, we do cover other structures rented to others as a private residence for which a limit

COVERAGE C - PERSONAL PROPERTY

1. Covered Property. We cover personal property owned or used by an "insured" while it is anywhere in the world. At your request, we will cover personal property owned by:
- a. Others while the property is on the part of the "residence premises" occupied by an "insured"; or
 - b. A guest or a "residence employee", while the property is in any residence occupied by an "insured".

This request may be made after a loss.

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2. **Limit For Property At Other Residences.** Our limit of liability for personal property usually located at an "insured's" residence, other than the "residence premises", is 10% of the limit of liability for Coverage C, or \$1,000, whichever is greater. However, this limitation does not apply to personal property:
 - a. Moved from the "residence premises" because it is being repaired, renovated or rebuilt and is not fit to live in or store property in; or
 - b. in a newly acquired principal residence for 30 days from the time you begin to move the property there.
3. **Special Limits of Liability.** The special limit for each category described below is the greater of the limit shown below or the special limit for such category, if any, shown in the Declarations. Such limit is the total limit for each loss for all property in that category. These special limits do not increase the Coverage C limit of liability.
 - a. \$200 on money, bank notes, bullion, gold other than goldware, silver other than silverware, platinum other than platinumware, coins, medals, scrip, stored value cards and smart cards.
 - b. \$1,500 on securities, accounts, deeds, evidence of debt, letters of credit, notes other than bank notes, manuscripts, personal records, passports, tickets and stamps. This dollar limit applies to these categories regardless of the medium (such as paper or computer software) on which the material exists.
This limit includes the cost to research, replace or restore the information from the lost or damaged material.
 - c. \$1,500 on watercraft of all types, including their trailers, furnishings, equipment and outboard engines or motors.
 - d. \$1,500 on trailers or semitrailers not used with watercraft of all types.
 - e. \$1,500 for loss by theft of jewelry, watches, furs, precious and semiprecious stones.
 - f. \$2,500 for loss by theft of firearms and related equipment.
 - g. \$2,500 for loss by theft of silverware, silver-plated ware, goldware, gold-plated ware, platinumware, platinum-plated ware and pewterware. This includes flatware, hollowware, tea sets, trays and trophies made of or including silver, gold, platinum or pewter.
 - h. \$5,000 on property, on the "residence premises", used primarily for "business" purposes.

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- i. \$1,500 on property, away from the "residence premises", used primarily for "business" purposes. However, this limit does not apply to loss to electronic apparatus and accessories described in category j. below.
- j. \$1,500 on electronic apparatus and accessories, while in or upon a "motor vehicle", but only if the apparatus is equipped to be operated by power from the "motor vehicle's" electrical system while still capable of being operated by other power sources.
- k. \$250 on tapes, records, discs or other media that can be used with any electronic apparatus, while in or upon a "motor vehicle".

4. Property Not Covered

We do not cover:

- a. Articles separately described and specifically insured, regardless of the limit for which they are insured, in this or other insurance;
- b. Animals, birds or fish;
- c. "Motor vehicles".
 - (1) This includes:
 - (a) Their accessories, equipment and parts; or
 - (b) Electronic apparatus and accessories designed to be operated solely by power from the electrical system of the "motor vehicle".

The exclusion of property described in (a) and (b) above applies only while such property is in or upon the "motor vehicle".
 - (2) We do cover "motor vehicles" not required to be registered for use on public roads or property which are:
 - (a) Used to service an "insured's" residence; or
 - (b) Designed to assist the handicapped;
- d. Aircraft meaning any contrivance used or designed for flight, including any parts whether or not attached to the aircraft.
We do cover model or hobby aircraft not used or designed to carry people or cargo;
- e. Hovercraft and parts. Hovercraft means a self-propelled motorized ground effect vehicle and includes, but is not limited to, flarecraft and air cushion vehicles;

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- f. Property of roomers, boarders and other tenants, except property of roomers and boarders related to an "insured";
- g. Property in an apartment regularly rented or held for rental to others by an "insured", except as provided under Additional Coverage 11. Landlord's Furnishings;
- h. Property rented or held for rental to others off the "residence premises";
- i. "Business" data, including such data stored in:
 - (1) Books of account, drawings or other paper records; or
 - (2) Computers and related equipment.

We do cover the cost of blank recording or storage media, and of prerecorded computer programs available on the retail market;
- j. Credit cards, electronic fund transfer cards or access devices used solely for deposit, withdrawal or transfer of funds except as provided in Additional Coverage 7. Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money;
- k. Grave markers, except as provided in Additional Coverage 13. Grave Markers; or
- l. Water or steam.

COVERAGE D - LOSS OF USE

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

1. **Additional Living Expense.** If a loss covered under Section I makes that part of the "residence premises" where you reside not fit to live in, we cover any necessary increase in living expenses incurred by you so that your household can maintain its normal standard of living. However, additional living expense due to "fungi", other microbes or rot remediation will not be paid in addition to any amounts paid or payable under Additional Coverage 16, Limited "Fungi", Other Microbes Or Rot Remediation.

Payment will be for the shortest time required to repair or replace the damage or, if you permanently relocate, the shortest time required for your household to settle elsewhere.
2. **Fair Rental Value.** If a loss covered under Section I makes that part of the "residence premises" rented to others or held for rental by you not fit to live in, we cover the fair rental value of such

premises less any expenses that do not continue while it is not fit to live in. However, fair rental value due to "fungi", other microbes or rot remediation will not be paid in addition to any amounts paid or payable under Additional Coverage 16, Limited "Fungi", Other Microbes Or Rot Remediation.

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

Written proof that part of the "residence premises" is rented, was held for rental at the time of loss or has been rented within the 24 months prior to the date of loss is required.

3. **Civil Authority Prohibits Use.** If a civil authority prohibits you from use of the "residence premises" as a result of direct physical damage to neighboring premises caused by a Peril insured Against under this policy, we cover resulting 1. Additional Living Expense and 2. Fair Rental Value as provided above for no more than two weeks. Neighboring premises means a premises in sufficient proximity to the "residence premises" that there exists a reasonable risk that the peril affecting the neighboring premises could endanger either the "residence premises" or the safety of its occupants while in the "residence premises".
4. **Loss Or Expense Not Covered.** We do not cover loss or expense due to cancellation of a lease or agreement.

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

ADDITIONAL COVERAGES

Unless otherwise stated:

The following coverages are additional insurance; and They are subject to your deductible.

1. **Debris Removal.** We will pay your reasonable expense for the removal of:
 - a. Debris of covered property if a Peril insured Against that applies to the damaged property causes the loss; or
 - b. Ash, dust or particles from a volcanic eruption that has caused direct loss to a building or property contained in a building.

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

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We do not pay for the removal of trees except as provided under 2. Tree Removal below.

2. **Tree Removal.** We will pay your reasonable expense, up to \$1,000, for the removal of one or more trees fallen on the "residence premises" as a result of a Peril Insured Against, provided the tree(s):

- a. Damage(s) a covered structure; or
- b. Do(es) not damage a covered structure, but:
 - (1) Block(s) a driveway on the "residence premises" which prevent(s) a "motor vehicle", that is registered for use on public roads or property, from entering or leaving the "residence premises"; or
 - (2) Block(s) a ramp or other fixture designed to assist a handicapped person to enter or leave the dwelling building.

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

3. **Reasonable Repairs.**

- a. We will pay the reasonable cost incurred by you for the necessary measures taken solely to protect covered property that is damaged by a Peril Insured Against from further damage.
- b. If the measures taken involve repair to other damaged property, we will pay only if that property is covered under this policy and the damage is caused by a Peril Insured Against.
- c. This coverage does not increase the limit of liability that applies to the covered property; or
- d. Relieve you of your duties, in case of a loss to covered property, described in 2.d. under Section I - Conditions.

4. **Trees, Shrubs And Other Plants.** We cover trees, shrubs, plants or lawns, on the "residence premises", for loss caused by the following Perils Insured Against:

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

- g. Theft.

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

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

No deductible applies to this coverage.

6. **Property Removed.** We insure covered property against direct loss from any cause while being removed from a premises endangered by a Peril Insured Against and for no more than 30 days while removed. This coverage does not change the limit of liability that applies to the property being removed.

7. **Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money.**

- a. We will pay up to the greater of \$1,000, or the higher amount, if any, shown in the Declarations for CREDIT CARD, for:

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

No deductible applies to this coverage.

- b. All loss resulting from a series of acts:

- (1) Committed by any one person or group of persons acting in concert; or

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- (2) in which any one person or group of persons acting in concert is concerned or implicated;

is considered to be one loss.

c. We do not cover:

- (1) Use of a credit card, electronic fund transfer card or access device:

- (a) By a resident of your household;
- (b) By a person who has been entrusted with either type of card or access device; or
- (c) if an "insured" has not complied with all terms and conditions under which the cards are issued or the devices accessed; or

- (2) Loss arising out of "business" use or dishonesty of an "insured".

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

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

8. Loss Assessment.

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

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

The limit of \$1,000 is the most we will pay with respect to any one loss, regardless of the number of assessments. We will apply only

one deductible, per unit, to the total amount of any one loss to the property described above, regardless of the number of assessments.

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

- c. Section 1 Condition 17. Policy Period does not apply to this coverage.

9. Collapse.

- a. With respect to this Additional Coverage:

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

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

- (1) The Perils Insured Against named under Coverage C;
- (2) Decay that is hidden from view, unless the presence of such decay is known to an "insured" prior to collapse or there are visible signs of water damage and the "insured" has not taken prompt action to prevent further damage;
- (3) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an "insured" prior to collapse;
- (4) Weight of contents, equipment, animals or people;
- (5) Weight of rain which collects on a roof; or
- (6) Use of defective material or methods in construction, remodeling or renovation if

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the collapse occurs during the course of the construction, remodeling or renovation.

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

10. Glass Or Safety Glazing Material.

a. We cover:

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

b. This coverage does not include loss:

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

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

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

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

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

12. Ordinance or Law.

- a. You may use up to the greater of 10%, or the higher percentage, if any, shown in the Declarations for ORDINANCE OR LAW, of the limit of liability that applies to Coverage A for the increased costs you incur due to the enforcement of any ordinance or law which requires or regulates:

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

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

c. We do not cover:

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

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids,

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alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

- d. The most we will pay for any increased costs to comply with any ordinance or law that becomes effective after the date of loss is \$5,000.

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

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

14. **Refrigerated Products Coverage.** We insure, up to \$500, covered property stored in freezers or refrigerators on the "residence premises" for direct loss caused by:

- a. Loss of power to the refrigeration unit. Loss of power means the complete or partial interruption of electric power due to conditions beyond an "Insured's" control. Loss of power must be caused by damage to:

- (1) Generating equipment; or
- (2) Transmitting equipment; or

- b. Mechanical failure of the unit which stores the property.

Coverage will apply only if you have maintained the refrigeration unit in proper working condition immediately prior to the loss.

This coverage does not increase the limit of liability for Coverage C.

We will pay only that part of the total of all loss payable that exceeds \$100. No other deductible applies to this coverage.

The Power Failure exclusion does not apply to this coverage.

15. **Inflation Coverage.** We may adjust the limits of liability for Coverages A, B, C and D at the beginning of each successive policy term to reflect increases in the cost of insured property. The amount of such increase will be based on the data provided by the appraisal company shown in the Declarations. Payment of the required premium when due for the successive policy term will be sufficient to indicate your acceptance of the adjusted limits.

We will also adjust the limits of liability at the time of a loss by the same percentage pro rated from the effective date of the policy period or the effective date of change if you have requested a

change to the limit of liability for Coverage A during the policy period.

16. **Limited "Fungi", Other Microbes Or Rot Remediation.**

- a. If a loss caused by a Peril Insured Against results in "fungi", other microbes or rot, we will pay for:

- (1) Remediation of the "fungi", other microbes or rot. This includes payment for the reasonable and necessary cost to:

- (a) Remove the "fungi", other microbes or rot from covered property or to repair, restore or replace that property; and

- (b) Tear out and replace any part of the building as needed to gain access to the "fungi", other microbes or rot;

- (2) Any reasonable and necessary increase in living expense you incur:

- (a) So that your household can maintain its normal standard of living; or

- (b) Loss of fair rental value;

if the "fungi", other microbes or rot makes the "residence premises" not fit to live in; and

- (3) Any reasonable and necessary testing or monitoring of air or property to confirm the absence, presence or level of the "fungi", other microbes or rot, whether performed prior to, during or after removal, repair, restoration or replacement.

- b. We will pay under this additional coverage only if:

- (1) The covered loss occurs during the policy period;

- (2) All reasonable means were used to save and preserve the property at the time of and after the covered loss; and

- (3) We receive prompt notice of the covered cause of loss that is alleged to have resulted in "fungi", other microbes or rot.

- c. The most we will pay under this additional coverage is the limit of liability shown in the Declarations for Limited "Fungi", Other Microbes Or Rot Remediation. This is the most we will pay for the total of all loss or costs regardless of the:

- (1) Number of locations or items of property insured under this policy; or

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(2) Number of losses or claims made.

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

SECTION I - PERILS INSURED AGAINST

COVERAGE A - DWELLING AND COVERAGE B - OTHER STRUCTURES

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

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

- a. Excluded under Section I - Exclusions;
- b. Involving collapse or danger of collapse, except as provided in Additional Coverage 9. Collapse under Section I - Property Coverages; or
- c. Caused by:

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

- (a) Maintain heat in the building; or
- (b) Shut off the water supply and drain all systems and appliances of water.

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

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

- (2) Freezing, thawing, pressure or weight of water or ice, whether driven by wind or not, to a:

- (a) Fence, pavement, patio or swimming pool;
- (b) Footing, foundation, bulkhead, wall, or any other structure or device that supports all or part of a building, or other structure;
- (c) Retaining wall or bulkhead that does not support all or part of a building or other structure; or

(d) Pier, wharf or dock;

- (3) Theft in or to a dwelling under construction, or of materials and supplies for use in the construction until the dwelling is finished and occupied;

- (4) Vandalism and malicious mischief, and any ensuing loss caused by any intentional and wrongful act committed in the course of the vandalism or malicious mischief, if the dwelling has been vacant for more than 60 consecutive days immediately before the loss. Vacant means substantially empty of personal property necessary to sustain normal occupancy. A dwelling being constructed is not considered vacant;

- (5) Constant or repeated seepage or leakage of water or steam, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more; or

- (6) Any of the following:

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

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

- (f) Settling, shrinking, bulging or expansion, including resultant cracking, or

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bulkheads, pavements, patios, footings, foundations, walls, floors, roofs or ceilings;

(g) Birds, vermin, rodents, or insects; or

(h) Animals owned or kept by an "insured".

Exception To c.(6)

Unless the loss is otherwise excluded, we cover loss to property covered under Coverage A or B resulting from an accidental discharge or overflow of water or steam from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or household appliance on the "residence premises". This includes the cost to tear out and replace any part of a building, or other structure, on the "residence premises", but only when necessary to repair the system or appliance. However, such tear out and replacement coverage only applies to other structures if the water or steam causes actual damage to a building on the "residence premises".

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

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

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

COVERAGE C – PERSONAL PROPERTY

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

1. Fire or lightning.

2. Windstorm or hail.

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

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

3. Explosion.

4. Riot or civil commotion.

5. Aircraft.

This peril includes self-propelled missiles and spacecraft.

6. Vehicles.

7. Smoke.

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

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

8. Vandalism or malicious mischief.

9. Theft.

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

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

(1) Committed by an "insured";

(2) In or to a dwelling under construction, or of materials and supplies for use in the construction until the dwelling is finished and occupied;

(3) From that part of a "residence premises" rented by an "insured" to someone other than another "insured"; or

(4) That occurs off the "residence premises" of:

(a) Trailers, semitrailers and campers;

(b) Watercraft of all types, and their furnishings, equipment and outboard engines or motors; or

(c) Property while at any other residence owned by, rented to, or occupied by an "insured", except while an "insured" is temporarily living there. Property of an "insured" who is a student is covered while at the residence the student occupies to attend school as long as the student has been there at any time during the 60 days immediately before the loss.

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10. Falling Objects.

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

11. Weight Of Ice, Snow Or Sleet.

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

12. Accidental Discharge Or Overflow Of Water Or Steam.

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

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

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

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

14. Freezing.

- a. This peril means freezing of a plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance but only if you have used reasonable care to:

- (1) Maintain heat in the building; or
- (2) Shut off the water supply and drain all systems and appliances of water.

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

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

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

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

16. Volcanic Eruption.

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

SECTION I - EXCLUSIONS

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

1. Ordinance or Law, meaning any ordinance or law:

- a. Requiring or regulating the construction, demolition, remodeling, renovation or repair of property, including removal of any resulting debris. This exclusion A.1.a. does not apply to the amount of coverage

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that may be provided for under Additional Coverage 12. Ordinance or Law;

- b. The requirements of which result in a loss in value to property.
- c. Requiring any "insured" or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, pollutants.

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

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

2. Earth Movement, meaning:

- e. Earthquake including land shock waves or tremors before, during or after a volcanic eruption;
- b. Landslide; mudslide, or mudflow;
- c. Subsidence or sinkhole; or
- d. Any other earth movement including earth sinking, rising or shifting;

caused by or resulting from human or animal forces or any act of nature, unless direct loss by fire or explosion ensues and then we will pay only for the ensuing loss.

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

3. Water Damage, meaning:

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

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

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

- 4. Power Failure, meaning the failure of power or other utility service if the failure takes place off the "residence premises". But, if the failure results in a loss from a Peril Insured Against, on the "residence premises", we will pay for the loss caused by that peril.
- 5. Neglect, meaning neglect of an "insured" to use all reasonable means to save and preserve property at and after the time of a loss.
- 6. War, War includes the following and any consequence of any of the following:
 - a. Undeclared war, civil war, insurrection, rebellion or revolution;
 - b. Warlike act by a military force or military personnel; or
 - c. Destruction, seizure or use for a military purpose.

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

- 7. Nuclear Hazard, to the extent set forth in the Nuclear Hazard Clause of Section I - Conditions.
- 8. Intentional Loss, meaning any loss arising out of any act an "insured" commits or conspires to commit with the intent to cause a loss.

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

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

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

- 10. "Fungi", Other Microbes or Rot, meaning any loss or cost resulting from, arising out of, caused by, consisting of, or related to, "fungi", other microbes or rot. This exclusion does not apply to:
 - a. "Fungi", other microbes or rot remediation coverage that may be afforded under Additional Coverage 16. Limited "Fungi", Other Microbes Or Rot Remediation; or

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- b. "Fungi", other microbes or rot that results from fire or lightning.
 - B. We do not insure for loss to property described in Coverages A and B caused by any of the following. However, any ensuing loss to property described in Coverages A and B not excluded by any other provision in this policy is covered.
 - 1. Weather conditions. However, this exclusion applies only if weather conditions contribute in any way with a cause or event excluded in A. above to produce the loss.
 - 2. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.
 - 3. Faulty, inadequate or defective:
 - e. Planning, zoning, development, surveying, siting;
 - b. Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
 - c. Materials used in repair, construction, renovation or remodeling; or
 - d. Maintenance;
- of part or all of any property whether on or off the "residence premises".

SECTION I - CONDITIONS

- 1. Insurable Interest and Limit of Liability. Even if more than one person has an insurable interest in the property covered, we will not be liable in any one loss:
 - a. To an "insured" for more than the amount of such "insured's" interest at the time of loss; or
 - b. For more than the applicable limit of liability.
- 2. Duties After Loss. In case of a loss to covered property, we have no duty to provide coverage under this policy if the failure to comply with the following duties is prejudicial to us. These duties must be performed either by you, an "insured" seeking coverage, or a representative of either.
 - a. Give us prompt notice;
 - b. Notify the police in case of loss by theft;
 - c. Notify the credit card or electronic fund transfer card or access device company in case of loss as provided for in Additional Coverage 7, Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money;
 - d. Protect the property from further damage. If repairs to the property are required, you must:
 - (1) Make reasonable and necessary repairs to protect the property; and
 - (2) Keep an accurate record of repair expenses;
 - e. Cooperate with us in the investigation of a claim;
 - f. Prepare an inventory of damaged personal property showing the quantity, description, actual cash value and amount of loss. Attach all bills, receipts and related documents that justify the figures in the inventory;
 - g. As often as we reasonably require:
 - (1) Show the damaged property;
 - (2) Provide us with records and documents we request and permit us to make copies; and
 - (3) Submit to examination under oath, while not in the presence of another "insured", and sign the same;
 - h. Send to us, within 80 days after our request, your signed, sworn proof of loss which sets forth, to the best of your knowledge and belief:
 - (1) The time and cause of loss;
 - (2) The interest of all "insureds" and all others in the property involved and all liens on the property;
 - (3) Other insurance which may cover the loss;
 - (4) Changes in title or occupancy of the property during the term of the policy;
 - (5) Specifications of damaged buildings and detailed repair estimates;
 - (6) The inventory of damaged personal property described in f. above;

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- (7) Receipts for additional living expenses incurred and records that support the fair rental value loss; and
 - (8) Evidence or affidavit that supports a claim under Additional Coverage 7. Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money, stating the amount and cause of loss.
3. **Loss Settlement.** In this Condition 3., the terms "cost to repair or replace" and "replacement cost" do not include the increased costs incurred to comply with the enforcement of any ordinance or law, except to the extent that coverage for these increased costs is provided in Additional Coverage 12. Ordinance Or Law. Covered property losses are settled as follows:
- a. Property of the following types:
 - (1) Personal property;
 - (2) Awnings, carpeting, household appliances, outdoor antennas and outdoor equipment, whether or not attached to buildings;
 - (3) Structures that are not buildings; and
 - (4) Grave markers, including mausoleums;

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

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

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

However, if the cost to repair or replace the damage is less than \$2,500, we will settle the loss as noted in b.(1) and b.(2) above whether or not actual repair or replacement is complete.
- (5) You may disregard the replacement cost loss settlement provisions and make claim under this policy for loss to buildings on an actual cash value basis. You

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may then make claim for any additional liability according to the provisions of this Condition 3. Loss Settlement, provided you notify us of your intent to do so within 180 days after the date of loss.

4. **Loss Deductible.** Unless otherwise stated in this policy, the following deductible provision applies:

Subject to the policy limits that apply, we will pay only that part of the total of all loss payable under Section 1 that exceeds the deductible amount shown in the Declarations.

5. **Loss to a Pair or Set.** In case of loss to a pair or set we may elect to:

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

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

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

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

Each party will:

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

8. **Other Insurance and Service Agreement.** If a loss covered by this policy is also covered by:

- Other insurance, we will pay only the proportion of the loss that the limit of liability that

applies under this policy bears to the total amount of insurance covering the loss; or

- A service agreement, the coverage provided under this policy is excess over any amounts payable under any such agreement. Service agreement means a service plan, property restoration plan, home warranty or other similar service warranty agreement, even if it is characterized as insurance.

9. **Suit Against Us.** No action can be brought against us unless there has been full compliance with all of the terms under Section 1 of this policy and the action is started within two years after the date of loss.

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

11. **Abandonment of Property.** We need not accept any property abandoned by an "Insured".

12. **Mortgage Clause,**

- If a mortgagee is named in this policy, any loss payable under Coverage A or B will be paid to the mortgagee and you, as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of precedence of the mortgages.

- If we deny your claim, that denial will not apply to a valid claim of the mortgagee, if the mortgagee:

- Notifies us of any change in ownership, occupancy or substantial change in risk of which the mortgagee is aware;

- Pays any premium due under this policy on demand if you have neglected to pay the premium; and

- Submits a signed, sworn statement of loss within 60 days after receiving notice from us of your failure to do so. Policy conditions relating to Appraisal, Suit Against Us and Loss Payment apply to the mortgagee.

- If we decide to cancel or not to renew this policy, the mortgagee will be notified at least 10 days before the date cancellation or nonrenewal takes effect.

- If we pay the mortgagee for any loss and deny payment to you:

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- (1) We are subrogated to all the rights of the mortgagee granted under the mortgage on the property; or
 - (2) At our option, we may pay to the mortgagee the whole principal on the mortgage plus any accrued interest. In this event, we will receive a full assignment and transfer of the mortgage and all securities held as collateral to the mortgage debt.
- e. Subrogation will not impair the right of the mortgagee to recover the full amount of the mortgagee's claim.
13. **No Benefit to Bellee.** We will not recognize any assignment or grant any coverage that benefits a person or organization holding, storing or moving property for a fee regardless of any other provision of this policy.
14. **Nuclear Hazard Clause.**
- a. "Nuclear Hazard" means any nuclear reaction, radiation, or radioactive contamination, all whether controlled or uncontrolled or however caused, or any consequence of any of these.
 - b. Loss caused by the nuclear hazard will not be considered loss caused by fire, explosion, or smoke, whether these perils are specifically named in or otherwise included within the Perils Insured Against.
 - c. This policy does not apply under Section I to loss caused directly or indirectly by nuclear hazard, except that direct loss by fire resulting from the nuclear hazard is covered.
15. **Recovered Property.** If you or we recover any property for which we have made payment under this policy, you or we will notify the other of the recovery. At your option, the property will be returned to or retained by you or it will become our property. If the recovered property is returned to or retained by you, the loss payment will be adjusted based on the amount you received for the recovered property.
16. **Volcanic Eruption Period.** One or more volcanic eruptions that occur within a 72-hour period will be considered as one volcanic eruption.
17. **Policy Period.** This policy applies only to loss which occurs during the policy period.
18. **Concealment or Fraud.** We provide coverage to no "insureds" under this policy if, whether before or after a loss, an "insured" has:
- a. Intentionally concealed or misrepresented any material fact or circumstance;
 - b. Engaged in fraudulent conduct; or
 - c. Made false statements;
- relating to this insurance.
19. **Premises Alarm or Fire Protection System.** (Applies only if PROTECTIVE DEVICES CREDIT is shown in the Declarations.)
- We acknowledge the installation of an alarm system and/or an automatic sprinkler system approved by us on the "residence premises". You agree to maintain this system or systems in working order and to let us know promptly of any change, including removal, made to the system(s).

SECTION II - LIABILITY COVERAGES

COVERAGE E - PERSONAL LIABILITY

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

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

ability for the "occurrence" is exhausted by the payment of a judgment or settlement.

COVERAGE F - MEDICAL PAYMENTS TO OTHERS

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

1. To a person on the "insured location" with the permission of an "insured"; or

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

SECTION II - ADDITIONAL COVERAGES

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

1. Claim Expenses. We pay:

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

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

3. Damage to Property of Others. We will pay, at replacement cost, up to \$1,000 per "occurrence" for "property damage" to property of others caused by an "insured".

We will not pay for "property damage":

- a. To the extent of any amount recoverable under Section I;
- b. Caused intentionally by an "insured" who is 13 years of age or older;
- c. To property owned by an "insured";
- d. To property owned by or rented to a tenant of an "insured" or a resident in your household; or
- e. Arising out of:
 - (1) A "business" engaged in by an "insured";

- (2) Any act or omission in connection with a premises owned, rented or controlled by an "insured", other than the "insured location"; or

- (3) The ownership, maintenance, occupancy, operation, use, loading or unloading of aircraft, hovercraft, watercraft or "motor vehicles".

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

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

4. Loss Assessment. We will pay up to \$1,000 for your share of loss assessment charged against you, as owner or tenant of the "residence premises", during the policy period by a corporation or association of property owners, when the assessment is made as a result of:

- a. "Bodily injury" or "property damage" not excluded under Section II of this policy; or
- b. Liability for an act of a director, officer or trustee in the capacity as a director, officer or trustee, provided such person:
 - (1) is elected by the members of a corporation or association of property owners; and
 - (2) Serves without deriving any income from the exercise of duties which are solely on behalf of a corporation or association of property owners.

Section II Condition 9, Policy Period, does not apply to this coverage.

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Regardless of the number of assessments, the limit of \$1,000 is the most we will pay for loss arising out of:

- a. One accident, including continuous or repeated exposure to substantially the same general harmful condition; or

- b. A covered act of a director, officer or trustee. An act involving more than one director, officer or trustee is considered to be a single act.

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

SECTION II - EXCLUSIONS

A. Coverage E - Personal Liability and Coverage F - Medical Payments to Others.

Coverages E and F do not apply to "bodily injury" or "property damage":

1. Which is expected or intended by an "insured" even if the resulting "bodily injury" or "property damage":
 - a. is of a different kind, quality or degree than initially expected or intended; or
 - b. is sustained by a different person, entity, real or personal property, than initially expected or intended.

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

2. Arising out of or in connection with a "business" conducted from an "insured location" or engaged in by an "insured", whether or not the "business" is owned or operated by an "insured" or employs an "insured". This exclusion A.2. applies to, but is not limited to, an act or omission, regardless of its nature or circumstance, involving a service or duty rendered, promised, owed, or implied to be provided because of the nature of the "business".

This exclusion A.2. does not apply to:

- a. The rental or holding for rental of an "insured location":
 - (1) On an occasional basis if used only as a residence;
 - (2) in part for use only as a residence, unless a single family unit is intended for use by the occupying family to lodge more than two roomers or boarders;
 - (3) in part, as an office, school, studio or private garage;
 - (4) Shown in the Declarations as an ADDITIONAL RESIDENCE RENTED TO OTHERS; or

(5) Shown in the Declarations as a STRUCTURE RENTED TO OTHERS.

- b. An "insured" under the age of 21 years involved in a part-time or occasional, self-employed "business" with no employees; or
- c. One or more activities, for which no "insured" receives more than \$2,000 in total compensation for the consecutive 12 months before an "occurrence";
3. Arising out of the rendering of or failure to render professional services;
4. Arising out of a premises:
 - a. Owned by an "insured";
 - b. Rented to an "insured"; or
 - c. Rented to others by an "insured";
 that is not an "insured location";
5. Caused directly or indirectly by war, including the following and any consequence of any of the following:
 - a. Undeclared war, civil war, insurrection, rebellion or revolution;
 - b. Warlike act by a military force or military personnel; or
 - c. Destruction, seizure or use for a military purpose.

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

6. Arising out of the transmission of a communicable disease by an "insured";
7. Arising out of sexual molestation, corporal punishment or physical or mental abuse;
8. Arising out of the use, sale, manufacture, delivery, transfer or possession by any person of a Controlled Substance(s) as defined by the Federal Food and Drug Law at 21 U.S.C.A. Sections 811 and 812. Controlled Substances include but are not limited to cocaine, LSD, marijuana and all narcotic drugs. However, this exclusion does not apply to the legitimate use of prescription drugs

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by a person following the orders of a licensed physician;

9. Arising out of, consisting of, caused by, contributed to, aggravated by or resulting from, whether directly or indirectly, by "fungi", other microbes or rot. This includes:
 - a. The cost of testing, monitoring, abating, mitigating, removing, remediating or disposing of "fungi", other microbes or rot;
 - b. Any supervision, instruction, disclosures, or failures to disclose, recommendations, warnings, or advice given, or that allegedly should have been given, in connection with "bodily injury" or "property damage" consisting of, arising out of, caused by, contributed to, aggravated by or resulting from, whether directly or indirectly, by "fungi", other microbes or rot, or the activities described in 9.a, above;
 - c. Any obligation to share with or repay another who must pay damages because of "bodily injury" or "property damage" damage of the type described in this exclusion. This applies regardless of any other cause that contributed directly or indirectly, concurrently or in any sequence to the "bodily injury" or "property damage"; and
 - d. Liability imposed upon any "insured" by any governmental authority for "bodily injury" or "property damage" consisting of, arising out of, caused by, contributed to, aggravated by or resulting from, whether directly or indirectly, by "fungi", other microbes or rot; or
10. Arising out of, resulting from, caused by or contributed to by the escape or release of fuel from a "fuel system". This exclusion applies, but is not limited to:
 - a. Any supervision, instructions, recommendations, warnings or advice given in connection with the above;
 - b. Any obligation to share damages, losses, costs, payments or expenses with or repay someone else who must make payment because of such "bodily injury" or "property damage", damages, loss, cost, payment or expense; or
 - c. Any request, order or requirement to test for, monitor, abate, mitigate, remediate, contain, remove, dispose of, or in any way respond to or assess the effects of fuel in any form.

However, this exclusion does not apply to "bodily injury" or "property damage" arising out of fire or explosion that results from such escaped or released fuel.

11. Any loss, cost, payment or expense, including, but not limited to, defense and investigation, of any kind arising out of, resulting from, caused by or contributed to by the actual or alleged presence or actual, alleged or threatened dispersal, release, ingestion, inhalation or absorption of lead, lead pigment, lead compounds or lead in any form which is or was contained or incorporated into any material or substance. This exclusion applies, but is not limited to:

- a. Any supervision, instructions, recommendations, warnings or advice given in connection with the above;
- b. Any obligation to share damages, losses, costs, payments or expenses with or repay someone else who must make payment because of such "bodily injury" or "property damage", damages, loss, cost, payment or expense; or
- c. Any request, order or requirement to test for, monitor, abate, mitigate, remediate, contain, remove, dispose of, or in any way respond to or assess the effects of lead, lead pigment, lead compounds or materials or substances containing lead in any form.

B. Coverage E- Personal Liability and Coverage F- Medical Payments to Others.

Coverages E and F also do not apply to:

1. "Motor Vehicle Liability" unless, at the time of an "occurrence", the involved "motor vehicle" is:
 - a. in dead storage on an "insured location";
 - b. Used to service an "insured's" residence;
 - c. Designed to assist the handicapped and, at the time of an "occurrence", it is:
 - (1) Being used to assist a handicapped person; or
 - (2) Parked on an "insured location";
 - d. Designed for recreational use off public roads and:
 - (1) Not owned by an "insured"; or
 - (2) Owned by an "insured", provided the "occurrence" takes place on an "insured location" as defined in Definitions paragraphs 8.a., b., d., e. or h.; or
 - e. A motorized golf cart that is owned by an "insured", designed to carry up to 4 persons, not built or modified after manufacture to exceed a speed of 25 miles per hour on level ground and, at the time of an "occurrence", is within the legal boundaries of:

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

However this exception to the exclusion from coverage does not apply if, at the time and place of an "occurrence", the involved "motor vehicle":

- a. is registered for use on public roads or property;
- b. is not registered for use on public roads or property, but such registration is required by a law, or regulation issued by a government agency, for it to be lawfully used at the place of the "occurrence"; or
- c. is being:
 - (1) Operated in, or practicing for, any prearranged or organized race, speed contest or other competition;
 - (2) Rented to others;
 - (3) Used to carry persons or cargo for a charge; or
 - (4) Used for any other "business" purpose except for a motorized golf cart used for incidental "business" entertainment while on a golfing facility.

2. "Watercraft liability" unless, at the time of an "occurrence", the involved watercraft:

- a. is stored;
- b. is a sailing vessel, with or without auxiliary power that is:
 - (1) Less than 26 feet in overall length; or
 - (2) 26 feet or more in overall length and not owned by or rented to an "insured";
- c. is not a sailing vessel and is powered by:

- (1) An inboard or inboard-outdrive engine or motor, including those that power a water jet pump, of:
 - (a) 50 horsepower or less and not owned by an "insured"; or
 - (b) More than 50 horsepower and not owned by or rented to an "insured"; or
- (2) One or more outboard engines or motors with:
 - (a) 25 total horsepower or less; or
 - (b) More than 25 horsepower if the outboard engine or motor is not owned by an "insured";
 - (c) More than 25 horsepower if the outboard engine or motor is owned by an "insured" who acquired it during the policy period; or
 - (d) More than 25 horsepower if the outboard engine or motor is owned by an "insured" who acquired it before the policy period, but only if:

(1) You declare them at policy inception; or

(2) Your intent to insure them is reported to us in writing within 45 days after you acquire them.

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

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

However this exception to the exclusion from coverage does not apply if, at the time and place of an "occurrence", the involved watercraft is being:

- a. Operated in, or practicing for, any prearranged or organized race, speed contest or other competition. This exclusion does not apply to a sailing vessel or a predicted log cruise;
- b. Rented to others;
- c. Used to carry persons or cargo for a charge; or
- d. Used for any other "business" purpose.

3. "Aircraft Liability".

4. "Hovercraft Liability".

Exclusions A.4., B.1., B.2., B.3. and B.4. do not apply to "bodily injury" to a "residence employee" arising out

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of and in the course of the "residence employee's" employment by an "insured".

C. Coverage E - Personal Liability.

Coverage E does not apply to:

1. Liability:

a. For any loss assessment charged against you as a member of an association, corporation or community of property owners, except as provided in Additional Coverage 4. Loss Assessment;

b. Under any contract or agreement entered into by an "insured". However, this exclusion does not apply to written contracts:

(1) That directly relate to the ownership, maintenance or use of an "insured location"; or

(2) In which the liability of others is assumed by the "insured" prior to an "occurrence";

unless excluded in a. above or elsewhere in this policy;

2. "Property damage" to property owned by the "insured". This includes costs or expenses incurred by an "insured" or others to repair, replace, enhance, restore or maintain such property to prevent injury to a person or damage to property of others, whether on or away from an "insured location".

3. "Property damage" to property rented to, occupied or used by or in the care of the "insured." This exclusion does not apply to "property damage" caused by fire, smoke or explosion;

4. "Bodily injury" to any person eligible to receive any benefits voluntarily provided or required to be provided by an "insured" under any:

a. Workers' compensation law;

b. Non-occupational disability law; or

c. Occupational disease law;

5. "Bodily injury" or "property damage" for which an "insured" under this policy:

a. is also an insured under a nuclear energy liability policy issued by the:

(1) Nuclear Energy Liability Insurance Association;

(2) Mutual Atomic Energy Liability Underwriters;

(3) Nuclear Insurance Association of Canada; or any of their successors; or

b. Would be an insured under that policy but for the exhaustion of its limit of liability;

6. "Bodily injury" to you or an "insured" as defined in Definition 7.a. or b.

This exclusion also applies to any claim made or suit brought against you or an "insured":

a. To repay; or

b. Share damages with;

another person who may be obligated to pay damages because of "bodily injury" to an "insured"; or

7. "Bodily injury" to an "employee", "residence employee" or a temporary employee furnished to the "insured" to substitute for a permanent "residence employee" arising out of or in the course of the employee's employment by any Additional insured named in the Declarations.

D. Coverage F - Medical Payments to Others.

Coverage F does not apply to "bodily injury":

1. To a "residence employee" if the "bodily injury":

a. Occurs off the "insured location"; and

b. Does not arise out of or in the course of the "residence employee's" employment by an "insured";

2. To any person eligible to receive benefits voluntarily provided or required to be provided under any:

a. Workers' compensation law;

b. Non-occupational disability law; or

c. Occupational disease law;

3. From any:

a. Nuclear reaction;

b. Nuclear radiation; or

c. Radioactive contamination;

all whether controlled or uncontrolled or however caused; or

d. Any consequence of any of these; or

4. To any person, other than a "residence employee" of an "insured", regularly residing on any part of the "insured location".

SECTION II - CONDITIONS

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

Our total liability under Coverage F for all medical expense payable for "bodily injury" to one person as the result of one accident will not be more than the Coverage F limit of liability shown in the Declarations.
2. **Severability of Insurance.** This insurance applies separately to each "insured". This condition will not increase our limit of liability for any one "occurrence".
3. **Duties After "Occurrence".** In case of an "occurrence", you or another "insured" will perform the following duties that apply. We have no duty to provide coverage under this policy if your failure to comply with the following duties is prejudicial to us. You will help us by seeing that these duties are performed:
 - a. Give us written notice as soon as is practical, which sets forth:
 - (1) The identity of the policy and the named "insured" shown in the Declarations;
 - (2) Reasonably available information on the time, place and circumstances of the "occurrence"; and
 - (3) Names and addresses of any claimants and witnesses;
 - b. Cooperate with us in the investigation, settlement or defense of any claim or suit;
 - c. Promptly forward to us every notice, demand, summons or other process relating to the "occurrence";
 - d. At our request, help us:
 - (1) To make settlement;
 - (2) To enforce any right of contribution or indemnity against any person or organization who may be liable to an "insured";
 - (3) With the conduct of suits and attend hearings and trials; and
 - (4) To secure and give evidence and obtain the attendance of witnesses;
- e. With respect to Additional Coverage 3, Damage to Property of Others, submit to us within 60 days after the loss, a sworn statement of loss and show the damaged property, if in an "insured's" control;
- f. No "insured" shall, except at such "insured's" own cost, voluntarily make payment, assume obligation or incur expense other than for first aid to others at the time of the "bodily injury".
4. **Duties of an Injured Person - Coverage F - Medical Payments to Others.**
 - a. The injured person or someone acting for the injured person will:
 - (1) Give us written proof of claim, under oath if required, as soon as is practical; and
 - (2) Authorize us to obtain copies of medical reports and records.
 - b. The injured person will submit to a physical exam by a doctor of our choice when and as often as we reasonably require.
5. **Payment of Claim - Coverage F - Medical Payments to Others.** Payment under this coverage is not an admission of liability by an "insured" or us.
6. **Suit Against Us.** No action can be brought against us unless there has been full compliance with all of the terms under this Section II.

No one will have the right to join us as a party to any action against an "insured". Also, no action with respect to Coverage E can be brought against us until the obligation of such "insured" has been determined by final judgment or agreement signed by us.
7. **Bankruptcy of an Insured.** Bankruptcy or insolvency of an "insured" will not relieve us of our obligations under this policy.
8. **Other Insurance.** This insurance is excess over other valid and collectible insurance except insurance written specifically to cover as excess over the limits of liability that apply in this policy.
9. **Policy Period.** This policy applies only to "bodily injury" or "property damage" which occurs during the policy period.

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

- a. intentionally concealed or misrepresented any material fact or circumstance;

b. Engaged in fraudulent conduct; or

c. Made false statements;

relating to this insurance.

SECTIONS I AND II - CONDITIONS

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

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

- a. A subsequent edition of this policy form; or
- b. An amendatory endorsement

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

The coverage provided and the premium charged are based on information you have given us. You agree to cooperate with us in determining if this information is correct and complete and to inform us of any change in title, use or occupancy of the "residence premises".

You agree that, if within 60 days of the policy effective date this information changes, is incorrect or incomplete, we may adjust your coverage and premium accordingly by giving you notice. This notice may be delivered to you, or mailed to you at your mailing address shown in the Declarations. The notice will contain the changed, incorrect or incomplete information along with the resulting premium change.

3. **Cancellation.**

- a. You may cancel this policy at any time by returning it to us or by letting us know in writing of the date cancellation is to take effect.
- b. We may cancel this policy only for the reasons stated below by letting you know in writing of the date cancellation takes effect. This cancellation notice may be delivered to you, or mailed to you at your mailing address

shown in the Declarations. Proof of mailing will be sufficient proof of notice.

(1) When you have not paid the premium, we may cancel at any time by letting you know at least 10 days before the date cancellation takes effect.

(2) When this policy has been in effect for less than 60 days and is not a renewal with us, we may cancel for any reason by letting you know at least 10 days before the date cancellation takes effect.

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

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

(b) if the risk has changed substantially since the policy was issued.

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

c. We will also mail a copy of any notice of cancellation to any Additional Insured named in the Declarations.

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

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

4. **Nonrenewal.** We may elect not to renew this policy. We may do so by delivering to you, or mailing to you at your mailing address shown in the Declarations, written notice at least 30 days before the expiration date of this policy. Proof of mailing will be sufficient proof of notice. We will also mail a copy of the notice to any Additional Insured named in the Declarations.

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if we offer to renew and you or your representative do not accept, this policy will automatically terminate without notice of termination at the end of the current policy period. Failure to pay the required renewal premium when due shall mean that you have not accepted our offer.

5. **Assignment.** Assignment of this policy will not be valid unless we give our written consent.
6. **Subrogation.** An "insured" may waive in writing before a loss all rights of recovery against any person. If not waived, we may require an assignment of rights of recovery for a loss to the extent that payment is made by us.

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

Subrogation does not apply under Section II to Medical Payments to Others or Damage to Property of Others.

7. **Death.** If any person named in the Declarations or the spouse, if a resident of the same household, dies:

- a. We insure the legal representative of the deceased but only with respect to the premises and property of the deceased covered under the policy at the time of death;
- b. "insured" includes:
- (1) An "insured" who is a member of your household at the time of your death, but only while a resident of the "residence premises"; and
- (2) With respect to your property, the person having proper temporary custody of the property until appointment and qualification of a legal representative.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PERSONAL PROPERTY REPLACEMENT COST LOSS SETTLEMENT**A. Eligible Property**

1. Covered losses to the following property are settled at replacement cost at the time of the loss:

- a. Property described in Coverage C; and
- b. If covered in this policy:
 - (1) Awnings, outdoor antennas and outdoor equipment; and
 - (2) Carpeting and household appliances;
 whether or not attached to buildings.

2. This method of loss settlement will also apply to the following articles or classes of property if they are separately described and specifically insured in this policy and not subject to agreed value loss settlement:

- a. Jewelry;
- b. Furs and garments:
 - (1) Trimmed with fur; or
 - (2) Consisting principally of fur;
- c. Cameras, projection machines, films and related articles of equipment;
- d. Musical equipment and related articles of equipment;
- e. Silverware, silver-plated ware, goldware, gold-plated ware, platinumware, platinum-plated ware and pewterware, but excluding:
 - (1) Pens or pencils;
 - (2) Flasks;
 - (2) Smoking implements; or
 - (3) Jewelry; and
- f. Golfer's equipment meaning golf clubs, golf clothing and golf equipment.

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

B. Ineligible Property

Property listed below is not eligible for replacement cost loss settlement. Any loss will be settled at actual cash value at the time of loss but not

more than the amount required to repair or replace.

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

C. Replacement Cost Loss Settlement Condition

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

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

All other provisions of this policy apply.

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HO-300 SC (12-08)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SPECIAL PROVISIONS - SOUTH CAROLINA**SECTION I - EXCLUSIONS**

The first paragraph of this section is deleted and replaced by the following:

We do not cover any direct or indirect loss or damage caused by, resulting from, contributing to or aggravated by any of these excluded perils. Loss from any of these perils is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss.

These exclusions apply whether or not the loss event:

- (1) Results in widespread damage;
- (2) Affects a substantial area; or
- (3) Occurs gradually or suddenly.

These exclusions also apply whether or not the loss event arises from:

- (1) Any acts of nature;
 - (2) Any human action or inaction;
 - (3) The forces of animals, plants or other living or dead organisms; or
 - (4) Any other natural or artificial process.
2. Earth Movement is deleted and replaced by the following:
2. "Earth Movement", meaning events that include but are not limited to the following:
- a. Earthquake and earthquake aftershocks;
 - b. Volcano activity including but not limited to:
 1. Volcanic Eruption;
 2. Volcanic Explosion;
 3. Effusion of volcanic material; or
 4. Lava Flow;
 - c. Mudslide, including mudflow, debris flow, landside, avalanche, or sediment;
 - d. Sinkhole;
 - e. Subsidence;
 - f. Excavation collapse;
 - g. Erosion;
 - h. Any expansion, shifting, rising, sinking, contracting, or settling of the earth, soil or land.

This exclusion applies whether or not the earth, soil or land is combined or mixed with water or any other liquid or natural or man made material.

However, loss caused directly by the specific perils:

- a. fire;
- b. explosion;
- c. breakage of building or dwelling glass or safety glazing material, including storm doors or windows; or
- d. theft;

following any "earth movement" is covered.

3. Water Damage is deleted and replaced by the following:

3. "Water damage", meaning:

- a. Flood, surface water, ground water, storm surge, waves, wave wash, tidal water, tsunami, seiche, overflow of a body of water, or spray from any of these, whether or not a result of precipitation or driven by wind;
- b. any water or water borne material that enters through or backs up from a sewer or drain, or which overflows from a sump;
- c. any water or water borne material located below the surface of the ground including water or water borne material:

- (1) Which exerts pressure on, seeps, leaks or flows into:

- (a) Any part of the dwelling or other structures;
- (b) The foundation of the dwelling or other structures;
- (c) Any paved surface located on the "residence premises"; or
- (d) Any spa, hot tub, or swimming pool.

- (2) Which causes "earth movement"; or

- d. any overflow, release, migration or discharge of water in any manner from a dam, levee, dike, hurricane barrier or any water or flood control device.

Direct loss by fire, explosion or theft resulting from "water damage" will be covered.

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SECTION I - CONDITIONS

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

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

The following condition is added to forms HO-2 and HO-3:

20. Valuation Clause. We agree that for the perils of fire and lightning the amount stated in the limit of liability section of the Declaration for Coverage A is the value of the described building. This value has been stated for insurance purposes only.

SECTION II - ADDITIONAL COVERAGES

The following additional coverage is added:

5. Property Damage Coverage For Military Personnel and Federal Government Employees:

If an "insured" is:

- a. A United States Government Employee; or
- b. A member of the United States Military.

We agree to pay for "property damage" to United States government property, for which such "insured" is responsible under applicable rules or regulations.

Payment for such "property damage" will be at replacement cost. Under this endorsement "replacement cost" is defined as the amount necessary to repair or replace the damaged property with no deduction for depreciation, subject to the Limit of Liability for this Additional Coverage.

Our Limit of Liability, per "occurrence", under this Additional Coverage for all damages resulting from any one "occurrence" shall not exceed two months basic pay for the "insured", as of the time of the "occurrence".

We will not pay for "property damage" to:

- a. Aircraft;
- b. "Motor vehicles";
- c. Watercraft; or
- d. Weapons.

We will not pay for "property damage":

- a. To the extent of any amount payable under Section I of this policy; or
- b. Caused intentionally by any "insured" who is 13 years of age or older.

SECTION I AND II - CONDITIONS

3. Cancellation. Paragraph b. is deleted and replaced by the following:

b. We may cancel this policy only for the reasons stated below, by written notification to you and, if any, your insurance agent of the date cancellation takes effect and the precise reason for cancellation. This cancellation notice may be delivered or mailed to you and your agent at the mailing addresses shown in the Declarations or the last known addresses. Proof of mailing will be sufficient proof of notice.

(1) When you have not paid the premium, we may cancel at any time by letting you and your agent know at least 10 days before the date cancellation takes effect.

(2) When this policy has been in effect for less than 120 days and is not a renewal with us, we may cancel for any reason by letting you and your agent know at least 30 days before the date cancellation takes effect.

(3) When this policy has been in effect for 120 days or more at any time if it is renewal with us, we may cancel:

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

(b) if the risk has changed substantially since the policy was issued, except to the extent that we should reasonably have foreseen the change or contemplated the risk in writing this policy;

(c) in the event of a substantial breach of a contractual duty, condition or warranty; or

(d) if we lose our reinsurance covering all or a significant portion of this policy, or where continuation of the policy would imperil our solvency or place us in violation of the insurance laws of this state. Cancellation for these reasons is subject to approval by the Insurance Commissioner.

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

4. Nonrenewal is deleted and replaced by the following:

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HO-300 SC (12-08)

4. **Nonrenewal.** We may elect not to renew this policy. We may do so by giving the following written notification to you and your agent:

1. If this policy was written for a term of one year or less, we may elect not to renew this policy by giving written notification at least:

a. 60 days before the expiration date of the policy if such date is on or after November 1 and before June 1; or

b. 90 days before the expiration date of this policy if such date is on or after June 1 and before November 1.

2. If this policy was written for a term of more than one year or for an indefinite term, we may elect not to renew this policy by giving written notification at least:

a. 60 days before the anniversary date of the policy if such date is on or after November 1 and before June 1; or

b. 90 days before the anniversary date of the policy if such date is on or after June 1 and before November 1. The nonrenewal notice, together with the precise reason for nonrenewal, may be delivered or mailed to you and your agent at the mailing addresses shown in the Declarations or the last known addresses.

We will also mail a copy of the notice to any Additional Insured named in the Declarations.

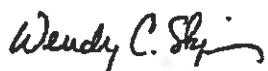
If we offer to renew and you or your representative do not accept, this policy will automatically terminate without notice of termination at the end of the current policy period. Failure to pay the required renewal premium when due shall mean that you have not accepted our offer.

All other provisions of this policy apply.

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This policy is signed for the company which is the insurer under this policy.



Wendy C. Skjerven
Senior Vice President and
Corporate Secretary



Joseph Lecher
Chief Executive Officer
Personal Lines

IN WITNESS WHEREOF, the Company has executed and attested these presents.



PL-8107 8-97

STATE OF SOUTH CAROLINA)
)
 COUNTY OF WILLIAMSBURG) IN THE COURT OF COMMON PLEAS
) THIRD JUDICIAL CIRCUIT
) CIVIL ACTION NO.: 2014-CP-45-00132

SOUTH CAROLINA FARM BUREAU)
 MUTUAL INSURANCE COMPANY,)

Plaintiff,)

v.)

MARION L. DRIGGERS, SHIRALEE)
 DRIGGERS, TAMMY D. FLOYD,)
 ARTHUR MCKENZIE, a/k/a AUTHER)
 MCKENZIE, THE TRAVELERS)
 INSURANCE COMPANY, THE)
 UNITED STATES OF AMERICA acting)
 by and through its agency, THE)
 INTERNAL REVENUE SERVICE and)
 THE SOUTH CAROLINA TAX)
 COMMISSION,)

Defendants.)

**ANSWER, COUNTERCLAIMS AND
 CROSS-CLAIMS OF DEFENDANTS
 SHIRALEE DRIGGERS AND TAMMY D.
 FLOYD TO PLAINTIFF'S AMENDED
 COMPLAINT
 (Breach of Contract)
 (Bad Faith)
 (Declaratory Judgment)
 (Jury Trial Demanded)**

TO: JOHN DWIGHT HUDSON, ESQ., ATTORNEY FOR PLAINTIFF, SOUTH CAROLINA FARM BUREAU MUTUAL INSURANCE COMPANY, PLAINTIFF, SOUTH CAROLINA FARM BUREAU MUTUAL INSURANCE COMPANY, DARYL JAMES CORBIN, ESQ., ATTORNEY FOR DEFENDANT, ARTHUR MCKENZIE A/K/A AUHER MCKENZIE, DEFENDANT, ARTHUR MCKENZIE A/K/A AUTHER MCKENZIE, WILLIAM P. DAVIS, ESQ., ATTORNEY FOR DEFENDANT, THE TRAVELERS INSURANCE COMPANY, DEFENDANT, THE TRAVELERS INSURANCE COMPANY, GEORGE CONITS, ESQ., ATTORNEY FOR DEFENDANT, THE UNITED STATES OF AMERICA BY AND THROUGH ITS AGENCY, THE INTERNAL REVENUE SERVICE, DEFENDANT, THE UNITED STATES OF AMERICA BY AND THROUGH ITS AGENCY, THE INTERNAL REVENUE SERVICE, TASHA THOMPSON, ESQ., AND MILTON KIMPSON, ESQ., ATTORNEYS FOR DEFENDANT, THE SOUTH CAROLINA TAX COMMISSION, DEFENDANT, THE SOUTH CAROLINA TAX COMMISSION, AND TO MARION L. DRIGGERS, *PRO SE*:

Defendants, Shiralee Driggers and Tammy D. Floyd (Tammy D. Floyd hereinafter individually referred to as "Floyd") (Shiralee Driggers hereinafter referred to as "Driggers"), by and through their undersigned counsel, answering the amended complaint (hereinafter referred to

as "Complaint") of Plaintiff, South Carolina Farm Bureau Mutual Insurance Company (hereinafter referred to as "SCFB"), counterclaiming against SCFB and cross-claiming against Defendants, Arthur McKenzie a/k/a Auther McKenzie (hereinafter referred to as "McKenzie"), The Travelers Insurance Company (hereinafter referred to as "Travelers"), The United States of America by and through its agency, The Internal Revenue Service (hereinafter referred to as the "IRS"), the South Carolina Tax Commission (hereinafter referred to as the "SCTC"), and Marion L. Driggers (hereinafter referred to as "Mr. Driggers), states as follows:

FOR A FIRST DEFENSE
(General Denial)

1. That Floyd and Driggers specifically deny each and every allegation of the Complaint not hereinafter specifically admitted, qualified, modified or explained.
2. That Floyd and Driggers lack sufficient information to admit or deny the allegations of Paragraph 1 of the Complaint, and, therefore deny the same and demands strict proof thereof.
3. That Floyd and Driggers admit the allegations of Paragraph 2 and Paragraph 3 of the Complaint.
4. That Floyd and Driggers lack sufficient information to admit or deny the allegations of Paragraph 4, Paragraph 5, Paragraph 6 and Paragraph 7 of the Complaint, and, therefore, deny the same and demand strict proof thereof.
5. That Floyd and Driggers specifically deny each and every allegation of Paragraph 8 of the Complaint as alleged that the fire was "intentionally set" and demand strict proof thereof, and, on information and belief, admit the remaining allegations of Paragraph 8 of the Complaint.

6. Floyd and Driggers admit the allegations of Paragraph 9 inasmuch as Floyd held title to the Property, but deny the remaining allegations that Floyd held title to the Property on behalf or in partnership with her parents.
7. That Floyd and Driggers specifically deny each and every allegation of Paragraph 10 of the Complaint that allege that the Property was owned by McKenzie, Mr. Driggers, and Driggers, and demand strict proof thereof, and, on information and belief, admit the remaining allegations of Paragraph 10 of the Complaint.
8. That Floyd and Driggers lack sufficient information to admit or deny the allegations of Paragraph 11 of the Complaint, and, therefore, deny the same and demand strict proof thereof.
9. That Floyd and Driggers lack sufficient information to admit or deny the allegations of Paragraph 12 of the Complaint, and, therefore, denies the same and demand strict proof thereof, and would further allege that the document attached to the Complaint as Exhibit B speaks for itself.
10. That Floyd and Driggers admit the allegations of Paragraph 13 of the Complaint.
11. That Floyd and Driggers lack sufficient information to admit or deny the allegations of Paragraph 14 of the Complaint, and, therefore, deny the same and demand strict proof thereof, and would further allege that the document attached to the Complaint as Exhibit A speaks for itself.
12. That Floyd and Driggers deny each and every allegation of Paragraph 15 of the Complaint and demand strict proof thereof.
13. That the allegations of Paragraph 16 of the Complaint set forth conclusions of law, and, therefore require no response, but if and to the extent a response is required, Floyd and

Driggers lack sufficient information to admit or deny the same, and, therefore deny the same and demand strict proof thereof.

14. That Floyd and Driggers lack sufficient information to admit or deny the allegations of Paragraph 17, Paragraph 18 and Paragraph 19 of the Complaint, and, therefore, deny the same and demand strict proof thereof, and would further allege that the document attached to the Complaint as Exhibit A speaks for itself.
15. That Floyd and Driggers specifically deny the allegations of Paragraph 20 of the Complaint and demand strict proof thereof.
16. That Floyd and Driggers deny each and every allegation of the Complaint to the extent the allegations of Paragraph 21 of the Complaint allege that McKenzie has or had an insurable interest in the property which is the subject of this matter and has an interest in and to the proceeds of the insurance benefits due and payable under the policy of insurance issued by SCFB which is in issue in this case (which policy of insurance hereinafter referred to as the "SCFB Policy") and/or the proceeds of the insurance benefits due and payable under the policy of insurance issued by Defendant, The Travelers Insurance Company (hereinafter referred to as "Travelers") which is in issue in this case (which policy of insurance hereinafter referred to as the "Travelers Policy") and, therefore, deny the same and demands strict proof thereof, and, on information and belief, admit the remaining allegations of Paragraph 21 of the Complaint.
17. That Floyd and Driggers lack sufficient information to admit or deny the allegations of Paragraph 22 and Paragraph 23 of the Complaint, and, therefore, deny the same and demand strict proof thereof, and would further allege that the document attached to the Complaint as Exhibit A speaks for itself.

18. That Floyd and Driggers deny each and every allegation of Paragraph 24 of the Complaint and demands strict proof thereof.
19. That Floyd and Driggers lack information to admit or deny the allegations of Paragraph 25 and Paragraph 26 of the Complaint, and, therefore, deny the same and demand strict proof thereof.
20. That the allegations of Paragraph 27 of the Complaint set forth conclusions of law, and, therefore require no response, but if and to the extent a response is required, Floyd and Driggers lack sufficient information to admit or deny the same, and, therefore deny the same and demand strict proof thereof.
21. That Floyd and Driggers deny each and every allegation of Paragraph 28 and Paragraph 29 of the Complaint, and demand strict proof thereof.
22. That in responding to Paragraph 30, each and every relevant and consistent admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 29 of the Complaint are incorporated herein by reference as if fully set forth herein verbatim.
23. That Floyd and Driggers deny each and every allegation of Paragraph 31 of the Complaint, and demand strict proof thereof.
24. That Floyd and Driggers lack information to admit or deny the allegations of Paragraph 32 of the Complaint, and, therefore, deny the same and demands strict proof thereof.
25. That Driggers deny each and every allegation of Paragraph 33, Paragraph 34 and Paragraph 35 of the Complaint, including the "Wherefore Prayer for Relief" which constitute the remaining allegations of the Complaint, and demand strict proof thereof.

FOR A SECOND DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Waiver, Estoppel and Laches)

26. That each and every relevant and consistent admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 25 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
27. That SCFB's claims set forth in the Complaint are barred by the doctrines of waiver, estoppel and laches.

FOR A THIRD DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Acceptance of Premiums)

28. That each and every relevant and consistent admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 27 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
29. That SCFB received regular and timely payment of premiums from Floyd, by and through her agents, and are accordingly contractually obligated to compensate Floyd for her loss covered under the SCFB Policy.

FOR A FOURTH DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Failure to Mitigate)

30. That each and every relevant and consistent admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 29 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
31. That SCFB has failed to mitigate its damages as required by law.

FOR A FIFTH DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Unclean Hands)

32. That each and every relevant and consistent admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 31 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
33. That SCFB is barred from recovery in this action by the doctrine of unclean hands.

FOR A SIXTH DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Failure to State Facts Sufficient to Constitute a Cause of Action)

34. That each and every relevant and consistent admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 33 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
35. That the Complaint fails to state facts sufficient to constitute a cause of action as to Floyd and Driggers.

FOR A SEVENTH DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Reservation and Non-Waiver)

36. That each and every relevant and consistent admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 35 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
37. That Floyd and Driggers have not had an opportunity to conduct sufficient investigation or engage in adequate discovery regarding the circumstances of Plaintiff's claims. Therefore, Floyd and Driggers specifically and expressly reserve and do not waive their rights to assert any additional defense as may be discovered through the course of written discovery, depositions and further investigation.

FOR AN EIGHTH DEFENSE
AND BY WAY OF A COUNTERCLAIM
(Breach of Contract as to SCFB)

38. That each and every relevant and consistent admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 37 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
39. That at all times relative hereto Mr. Driggers was acting as an agent of Floyd and was acting within the course and scope of his agency.
40. That at all times relative hereto Driggers was acting as an agent of Floyd and was acting within the course and scope of his agency.
41. That on May 24, 2009, Floyd, was the legal and beneficial owner and title holder of certain parcel of real property located in the County of Williamsburg, State of South Carolina, whose current physical address is 200 W. Highway 378 Bypass, Lake City, South Carolina 29560 (also known as 3328 Turbeville Highway), which is more specifically described as follows:

All that certain piece, parcel or tract of land, lying, being and situate in Sumter Township, County of Williamsburg, State of South Carolina, containing Three and seven hundred twenty one thousandths (3.721) acres, being triangular in shape and more particularly show and delineated as Tract No. 2 on a plat thereof prepared by L. M. Coleman, III, R.L.S., dated March 9, 1984, and recorded in the Office of the Clerk of Court for Williamsburg County in Plat Book 34 at page 186 and bounded and described as follows, to-wit: On the Northwest by lands of Heirs of Kenneth B. Floyd and Tract No. 1 as shown on the plat hereinabove referred to; on the Northeast by other lands of RRD, a South Carolina Limited Partnership, formerly lands of C.R. Coker, a ditch being the line; and on the South by U.S. Highway 378. The same being the identical tract of land conveyed to E.L. Matthews by Blue, Inc. by deed dated the 15th day of November 1991, and recorded in the Office of the Clerk of Court for Williamsburg County in Deed Book 273 at page 230. Tax Map #45-118-46.

(hereinafter referred to as the "Property").

42. That on May 24, 2009, there was a dwelling located on the Property (hereinafter referred to as the "Dwelling").
43. That the Property is and at all times relative hereto was owned and titled in the name of Floyd.
44. That, on information and belief, SCFB is a corporation organized and existing pursuant to the laws of the State of South Carolina, is authorized and licensed by the South Carolina Department of Insurance to write contracts of insurance insuring residential dwellings located in South Carolina pursuant to Sections 38-5-10 through 200, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended, and does business in Williamsburg County, South Carolina.
45. That on May 24, 2009, SCFB issued a mutually binding contract of dwelling and fire insurance (hereinafter referred to as "the SCFB Policy"), insuring the Dwelling, which Policy is more fully described in Paragraph 8 of the Complaint.
46. That the SCFB Policy was procured by Mr. Drigges in his capacity as an agent for Floyd.
47. That the SCFB Policy constitutes a contract between SCFB and Mr. Driggers, as agent for Floyd, who was at all times relevant hereto, was acting as an agent for Floyd in insuring the Property.
48. That the SCFB Policy provides, among other things, that SCFB will cover the Dwelling and all attached structures, ancillary features and porches and decks attached thereto, all out buildings located on the Property, personal property located on the property incidental to its use as a residence and the use of the Property against direct physical loss, including, without limitation, loss by fire.

49. That the Dwelling was damaged and destroyed by fire on November 26, 2009 (hereinafter referred to as the "Fire").
50. That the damage and destruction of the Dwelling caused by the Fire constitutes a direct physical loss of the dwelling and its contents, a peril insured against under the SCFB Policy.
51. That following the Fire, Driggers and Mr. Driggers, acting as agents of Floyd, made a timely claim for coverage under the SCFB Policy with SCFB by providing timely notice of the Fire through its local insurance agent.
52. That none of the exclusions to coverage set forth in the SCFB Policy apply to their claim for coverage under the SCFB Policy arising out of the Fire.
53. That, as a direct and proximate result of the direct physical loss to the Dwelling caused by the Fire, Floyd is entitled to receive payment of benefits due and owing under the SCFB Policy in an amount equal to the loss sustained by them, to include the cost of replacing the Dwelling without deduction for depreciation, the actual cash value of the contents of the Dwelling at the time of the Fire, the fair rental value of the Property during the period it is and was uninhabitable and for any and all additional living expenses incurred by Floyd, by and through her agents, as a direct and proximate consequence of the Fire.
54. That though Floyd is entitled to the payment of benefits under the SCFB Policy as a direct and proximate consequence of the Fire, SCFB has refused and continues to refuse without just cause or legal justification to pay her the benefits due under the SCFB Policy.
55. That SCFB's failure to pay Floyd or her agent, Driggers, her benefits due under the SCFB Policy was unreasonable and in bad faith, and, therefore, constitutes a breach of the implied obligation of good faith and fair dealing inherent in the SCFB Policy.

56. That as a direct and proximate consequence of SCFB's breach of the SCFB Policy, Floyd and Driggers have suffered actual damages in the amount of all insurance coverages applicable to Floyd, under the SCFB Policy.
57. That as a direct and proximate consequence of SCFB's breach of the SCFB Policy, Floyd and Driggers are entitled to judgment against SCFB in the in the amount of all insurance coverages applicable to Floyd under the SCFB Policy, together with consequential damages and prejudgment interest in the amount of eight and three-fourths percent (8¾%) per annum from the date claim for proceeds under the SCFB Policy were made.

FOR A NINTH DEFENSE
AND BY WAY OF A COUNTERCLAIM
(Bad Faith as to SCFB)

58. That each and every relevant and consistent admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 57 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
59. That SCFB Policy, like all contracts of insurance, contains an implied covenant of good faith and fair dealing that neither party will do anything to impair the other's rights to receive benefits under the contract.
60. That SCFB's refusal to pay Floyd or her agent, Driggers, benefits due her under the Policy is unreasonable or in bad faith and constitutes a breach of the Policy's implied covenant of good faith and fair dealing.
61. That SCFB's refusal to pay Floyd or her agent, Driggers, benefits due her under the SCFB Policy is and was willful and/or in reckless disregard of her rights under the SCFB Policy.
62. That as a direct and proximate consequence of SCFB's unreasonable, willful, wanton and/or bad faith breach of the implied obligation of good faith and fair dealing arising under

the SCFB Policy, Floyd and Driggers have suffered actual and consequential damages, including, without limitation, the need to retain an attorney to contest SCFB's refusal to pay Floyd's benefits due her under the SCFB Policy, economic loss of use of the Property in excess of the lost use limits contained in the SCFB Policy, additional deterioration of the Dwelling, increase in the cost to replace the contents and emotional damage, distress and mental anguish.

63. That as a direct and proximate consequence of SCFB's unreasonable, willful, wanton and/or bad faith breach of the implied obligation of good faith and fair dealing arising under the SCFB Policy, Floyd and Driggers are entitled to judgment in the in the amount of all insurance coverages applicable under the SCFB Policy, together with prejudgment interest in the amount of eight and three-fourths percent (8¾%) *per annum* from the date claim for proceeds under the SCFB Policy was made, consequential damages, and for punitive damages in an appropriate amount.

FOR A TENTH DEFENSE
AND BY WAY OF A COUNTERCLAIM
(Violation of Section 38-59-40(1), CODE OF LAWS OF
SOUTH CAROLINA, 1976, as to SCFB)

64. That each and every relevant and consistent admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 63 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
65. That Section 38-59-40(1), CODE OF LAWS OF SOUTH CAROLINA, 1976, provides in pertinent part:

In the event of a claim, loss, or damage which is covered by a policy of insurance . . . and the refusal of the insurer . . . to pay the claim within ninety days after a demand has been made by the holder of the policy . . . and a finding on suit of the contract made by the trial judge that the refusal was without reasonable cause or in bad faith, the insurer . . . in addition to any

sum or any amount otherwise recoverable, all reasonable attorneys' fees for the prosecution of the case against the insurer. . . The amount of reasonable attorneys' fees must be determined by the trial judge and the amount added to the judgment. The amount of the attorneys' fees may not exceed one-third of the amount of the judgment.

- 66. That more than ninety (90) days has elapsed since Floyd, by and through her agents, made a demand on SCFB.
- 67. That SCFB's refusal to pay Floyd or her agent, Driggers, the benefits due under the SCFB Policy was without reasonable cause or in bad faith.
- 68. That as a direct and proximate consequence of SCFB's refusal to pay Floyd benefits due under the SCFB Policy without reasonable cause and/or in bad faith, Floyd and Driggers are entitled to attorney fees of one-third of any recovery and litigation costs as provided in Section 38-59-40(1), CODE OF LAWS OF SOUTH CAROLINA, 1976.

FOR AN ELEVENTH DEFENSE
AND BY WAY OF A CROSS-CLAIM
(Breach of Contract as to Travelers)

- 69. That each and every relevant and consistent admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 68 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
- 70. That, on information and belief, Travelers is a corporation organized and existing pursuant to the laws of a State other than the State of South Carolina, is authorized and licensed by the South Carolina Department of Insurance to write contracts of insurance insuring residential dwellings located in South Carolina pursuant to Sections 38-5-10 through 200, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended, and does business in Williamsburg County, South Carolina.

71. That on February 27, 1997, Floyd, by and through her agents her agents, Mr. Driggers and Driggers, entered in to a written installment sales contract with Liza Gamble (hereinafter referred to as "Gamble") and McKenzie wherein Floyd, by and through her agents, Mr. Driggers and Driggers, agreed to sell the Property to Gamble and McKenzie and Gamble and McKenzie agreed to purchase the Property from Floyd pursuant to the terms more fully set forth therein, which written installment sales contract was recorded with the Office of the Williamsburg County Clerk of Court on February 10, 1998, in Book A-402, Page 115 (hereinafter referred to as the "Contract").
72. That the Contract was prepared based upon terms and conditions contained in a final Order, filed July 10, 1996, in Case No. 94-CP-45-00380, commenced in the Williamsburg County Court of Common Pleas, in the Third Judicial Circuit, captioned *E.L. Matthews, Plaintiff, vs. Arthur McKenzie, Defendant/Third Party Plaintiff, vs. Shirley Driggers, Third Party Defendant*, (hereinafter referred to as the "Order").
73. That pursuant to the Order and the Contract, McKenzie and Gamble were required to procure homeowners, fire and extended insurance contract on the Property with a loss payable clause in favor of Floyd, and/or her agents, Mr. Driggers and Driggers.
74. That on May 7, 2009, The Travelers issued a policy of homeowners' insurance to McKenzie as more fully described in Paragraph 12 of the Complaint (hereinafter referred to as the "Travelers Policy").
75. That, on information and belief, McKenzie failed to have Floyd, and/or her agents, Mr. Driggers and Driggers, listed as additional named insureds and/or loss payees under the Travelers Policy in direct violation and breach of the Contract and the Order in that it was without legal justification.

76. That the Travelers Policy provides, among other things, that Travelers will cover the Dwelling and all attached structures, ancillary features and porches and decks attached thereto, all out buildings located on the Property, personal property located on the property incidental to its use as a residence and the use of the Property against direct physical loss, including, without limitation, loss by fire.
77. That the Travelers Policy did not list Floyd, and/or her agents, Mr. Driggers and Driggers, as loss payees but does contain the following provision:

SECTION I – CONDITIONS

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

- a. Reach an agreement with you;
- b. There is an entry of a final judgment; or
- c. There is a filing of an appraisal award with us.

* * *

(emphasis added).

78. That during the course of Travelers investigation of the Fire, it learned that Floyd had an ownership interest in the Property.
79. That Floyd, as owner of the Property, is an “other person[s] . . . **legally entitled to receive payment**” under the Travelers Policy.
80. That the Travelers Policy constitutes a contract of insurance between Travelers and McKenzie and Floyd.
81. That the damage and destruction of the Dwelling caused by the Fire constitutes a direct physical loss of the dwelling and its contents, a peril insured against under the Travelers Policy.

82. That following the Fire, Floyd, by and through her agents, Mr. Driggers and Driggers, made a timely claim for coverage under the Policy.
83. That none of the exclusions to coverage set forth in the Travelers Policy apply to Floyd's claim for coverage under the Travelers Policy arising out of the Fire.
84. That, as a direct and proximate result of the direct physical loss to the Dwelling caused by the Fire, Floyd is entitled to receive payment of benefits due and owing under the Travelers Policy in an amount equal to the loss sustained by her, to include the cost of replacing the Dwelling without deduction for depreciation, the actual cash value of the contents of the Dwelling at the time of the Fire, the fair rental value of the Property during the period it is and was uninhabitable and for any and all additional living expenses incurred by Floyd, and/or her agents, Mr. Driggers and Driggers, as a direct and proximate consequence of the Fire.
85. That though Floyd or her agent, Driggers, is entitled to the payment of benefits under the Travelers Policy as a direct and proximate consequence of the Fire, Travelers has refused and continues to refuse without just cause or legal justification to pay Floyd the benefits due under the Travelers Policy.
86. That Travelers failure to pay Floyd or her agent, Driggers, her benefits due under the Travelers Policy was unreasonable and in bad faith, and, therefore, constitutes a breach of the implied obligation of good faith and fair dealing inherent in the Travelers Policy.
87. That as a direct and proximate consequence of Travelers' breach of the Travelers Policy, Floyd and Driggers or her agent, Driggers, have suffered actual damages in the amount of all insurance coverages applicable to Floyd under the Travelers Policy.

88. That as a direct and proximate consequence of Travelers' breach of the Travelers Policy, Floyd and Driggers are entitled to judgment against Travelers in the in the amount of all insurance coverages applicable to Floyd under the Travelers Policy, together with consequential damages and prejudgment interest in the amount of eight and three-fourths percent (8¾%) per annum from the date claim for proceeds under the Travelers Policy were made.

FOR A TWELVTH DEFENSE
AND BY WAY OF A CROSS-CLAIM
(Bad Faith as to Travelers)

89. That each and every relevant and consistent admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 88 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
90. That the Travelers Policy, like all contracts of insurance, contains an implied covenant of good faith and fair dealing that neither party will do anything to impair the other's rights to receive benefits under the contract.
91. That Travelers' refusal to pay Floyd benefits due her under the Travelers Policy is unreasonable or in bad faith and constitutes a breach of the Travelers Policy's implied covenant of good faith and fair dealing.
92. That Travelers' refusal to pay Floyd benefits due her under the Travelers Policy is and was willful and/or in reckless disregard of Floyd's rights under the Travelers Policy.
93. That as a direct and proximate consequence of Travelers' unreasonable, willful, wanton and/or bad faith breach of the implied obligation of good faith and fair dealing arising under the Travelers Policy, Floyd, and Driggers, have suffered actual and consequential damages, including, without limitation, the need to retain an attorney to contest Travelers'

refusal to pay Floyd benefits due her under the Travelers Policy, economic loss of use of the Property in excess of the lost use limits contained in the Travelers Policy, additional deterioration of the Dwelling, increase in the cost to replace the contents and emotional damage, distress and mental anguish.

94. That as a direct and proximate consequence of Travelers' unreasonable, willful, wanton and/or bad faith breach of the implied obligation of good faith and fair dealing arising under the Travelers Policy, Floyd and Driggers, are entitled to judgment in the in the amount of all insurance coverages applicable to Floyd under the Travelers Policy, together with consequential damages, prejudgment interest in the amount of eight and three-fourths percent (8¾%) *per annum* from the date claim for proceeds under the Travelers Policy was made and for punitive damages in an appropriate amount.

FOR A THIRTEENTH DEFENSE
AND BY WAY OF A CROSS-CLAIM
(Violation of Section 38-59-40(1), CODE OF LAWS
OF SOUTH CAROLINA, 1976, as to Travelers)

95. That each and every relevant and consistent admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 94 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
96. That more than ninety (90) days has elapsed since Floyd, by and through her agents, Mr. Driggers and Driggers, made her demand on Travelers.
97. That Travelers refusal to pay Floyd or her agent, Driggers, benefits due under the Policy was without reasonable cause or in bad faith.
98. That as a direct and proximate consequence of Travelers refusal to pay Floyd benefits due under the Travelers Policy without reasonable cause and/or in bad faith, Floyd and Driggers

are entitled to attorney fees of one-third of any recovery and litigation costs as provided in Section 38-59-40(1), CODE OF LAWS OF SOUTH CAROLINA, 1976.

FOR A FOURTEENTH DEFENSE
AND BY WAY OF A CROSS-CLAIM
(Breach of Contract as to McKenzie)

99. That each and every relevant and consistent admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 98 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
100. That, as a direct and proximate result of McKenzie's failure to have Floyd, and/or her agents, Mr. Driggers and Driggers, listed as additional named insureds and/or loss payees under the Travelers Policy in direct violation and breach of the Contract and the Order, Floyd and Driggers, have suffered damages and loss in an amount equal to the cost of replacing the Dwelling without deduction for depreciation, the actual cash value of the contents of the Dwelling at the time of the Fire, the fair rental value of the Property during the period it is and was uninhabitable and for any and all additional living expenses incurred by Floyd, as a direct and proximate consequence of the Fire.
101. That as a direct and proximate consequence of McKenzie's breach of the Contract, Floyd and Driggers have suffered actual damages in the amount of one hundred eighteen thousand and no one-hundredths dollars (\$118,000.00).
102. That as a direct and proximate consequence of McKenzie's breach of the Contract, Floyd, and Driggers are entitled to a judgment against McKenzie in the in the amount of all insurance coverages applicable to Floyd under the Travelers Policy, together with consequential damages and prejudgment interest in the amount of eight and three-fourths percent (8¾%) per annum from the date claim for proceeds under the Policy were made.

FOR A FIFTEENTH DEFENSE
AND BY WAY OF A CROSS-CLAIM
(Declaratory Judgment as to McKenzie, IRS and SCTC)

- 103.** That each and every admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 103 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
- 104.** That, on information and belief, IRS is an agency of the United States Government with charged which is charged with the duty of collecting taxes levied by and owed to the United States Government.
- 105.** That, on information and belief, SCTC is an agency of the State of South Carolina Government which is charged with the duty of collecting taxes levied by and owed to the State of South Carolina Government.
- 106.** That, on information and belief, McKenzie owes back taxes to both the United States Government and to the State of South Carolina.
- 107.** That, on information, and belief, both IRS and SCTC have filed liens against McKenzie in the Office of the Florence County Clerk of Court.
- 108.** That the Property is located in Williamsburg County, South Carolina.
- 109.** That McKenzie, IRS and SCTC have no legal interest, ownership interest or lien hold interest in or to the Property of any type or nature.
- 110.** That McKenzie, IRS and SCTC have no legal interest, ownership interest or lien hold interest in or to the benefits due under the Policy or the Travelers Policy arising out of the Fire of any type or nature.
- 111.** That Floyd and Driggers are entitled to a judgment pursuant to Sections 15-53-20, 30, 60, 80, 90, 100, 120, 130 and 140, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended,

and Rule 57, S.C.R.Civ.P., declaring that McKenzie, IRS and SCTC have no legal interest, ownership interest or lien hold interest in or to the benefits due under the Policy or the Travelers Policy of any type or nature arising out of the Fire and that any and all proceeds and benefits due under the Policy and/or the Travelers Policy arising out of the Fire belong to Floyd.

FOR A SIXTEENTH DEFENSE
AND BY WAY OF A CROSS-CLAIM
(Declaratory Judgment as to Marion L. Driggers)

112. That each and every admission, denial, explanation, modification and/or allegation set forth in Paragraph 1 through Paragraph 111 hereinabove are incorporated herein by reference as if fully set forth herein verbatim.
113. That Mr. Driggers is married to Driggers and is the father of Floyd.
114. That, at all times relevant hereto, all actions taken by Mr. Driggers in regards to the Property, including entering into the Contract with Gamble, the procurement of insurance on the Property, notifying SCFB and Travelers of the Fire, making claims for insurance proceeds under both the SCFB and Traveler's Policies, has been for the benefit of Floyd and performed as an agent of Floyd.
115. That, accordingly, Mr. Driggers has no personal or legal interest, ownership interest or lien hold interest in or to the Property of any type or nature.
116. That Floyd and Driggers are entitled to a judgment pursuant to Sections 15-53-20, 30, 60, 80, 90, 100, 120, 130 and 140, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended, and Rule 57, S.C.R.Civ.P., declaring that Mr. Driggers has no legal interest, ownership interest or lien hold interest in or to the benefits due under the SCFB Policy or the Travelers Policy of any type or nature arising out of the Fire and that any and all proceeds and benefits

due under the SCFB Policy and/or the Travelers Policy arising out of the Fire belong to Floyd.

WHEREFORE, Defendants, Shiralee Driggers and Tammy D. Floyd, having Answered the Amended Complaint of Plaintiff, South Carolina Farm Bureau Mutual Insurance Company, having counterclaimed against Plaintiff, South Carolina Farm Bureau Mutual Insurance Company, having crossclaimed against Defendants, Arthur McKenzie a/k/a Auther McKenzie, The Travelers Insurance Company, The United States of America by and through its agency, The Internal Revenue Service, the South Carolina Tax Commission, and Marion L. Driggers, pray that judgment be entered in their favor as follows:

- a. Dismissing the Complaint of Plaintiff, South Carolina Farm Bureau Mutual Insurance Company, as to them;
- b. Awarding them damages in the amount of all insurance coverages applicable to Floyd under the SCFB Policy, together with consequential damages and pre-judgment interest in the amount of eight and three-fourths percent (8¾%) per annum from the date claim for proceeds under the Policy was made against Plaintiff, South Carolina Farm Bureau Mutual Insurance Company;
- c. Awarding them damages in the amount of all insurance coverages applicable to Floyd under the Travelers Policy, together with consequential damages and pre-judgment interest in the amount of eight and three-fourths percent (8¾%) per annum from the date of Floyd's claim for proceeds under the Travelers Policy was made against Defendant, The Travelers Insurance Company;
- d. Awarding them damages in the amount of all insurance coverages applicable to Floyd under the Travelers Policy, together with consequential damages and pre-judgment interest

- in the amount of eight and three-fourths percent (8¾%) per annum from the date claim for proceeds under the Travelers Policy was made by Defendant, Arthur McKenzie a/k/a Auther McKenzie;
- e. Awarding them punitive damages in an appropriate amount against Plaintiff, South Carolina Farm Bureau Mutual Insurance Company and Defendant, The Travelers Insurance Company;
 - f. Declaring that Defendants, Marion L. Driggers, Arthur McKenzie a/k/a Auther McKenzie, The United States of America by and through its agency, The Internal Revenue Service, and the South Carolina Tax Commission, have no legal interest, ownership interest or lienhold interest in or to the benefits due under the SCFB Policy or the Travelers Policy of any type or nature arising out of the Fire, and that any and all proceeds and benefits due under the SCFB Policy and/or the Travelers Policy arising out of the Fire belongs to Defendant, Tammy D. Floyd;
 - g. Awarding Shiralee Driggers and Tammy D. Floyd their costs and attorney fees incurred in connection with this matter; and,
 - h. For such other and further relief as this Court deems just and proper.

PRITCHARD LAW GROUP, LLC

/s/ ELIZABETH F. FULTON, ESQ.

Edward K. Pritchard, III, Esq.

Elizabeth F. Fulton, Esq.

129 Broad Street

Charleston, South Carolina 29401

(843) 722-3300 Phone

(843) 722-3379 Fax

epritchard@pritchardlawgroup.com

liz@pritchardlawgroup.com

*Attorneys for Defendants Shiralee
Driggers, and Tammy D. Floyd*

July 28, 2016
Charleston, South Carolina

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on this date, a true and correct copy of the within and foregoing *Answer, Counterclaims and Cross-Claims of Defendants, Shiralee Driggers and Tammy D. Floyd*, was served by electronic filing, email or by placing a copy of the same in the United States Mail with sufficient postage affixed thereto, addressed as follows:

John Dwight Hudson, Esq.
Hudson Law Offices
Post Office Box 70218
Myrtle Beach, South Carolina 29572
HUDSONLAW@HUDSONLAWOFFICE.COM
Attorney for Plaintiff

William P. Davis, Esq.
Baker, Ravenel & Bender, LLP
3710 Landmark Drive, Suite 400
Post Office Box 8057
Columbia, South Carolina 29572
WDAVIS@BRBLEGAL.COM
*Attorney for Defendant, The Travelers Home
and Marine Insurance Company*

Daryl James Corbin, Esq.
Corbin Law Firm
Post Office Box 447
Florence, South Carolina 29572
DCORBIN@CORBINLAWSC.COM
Attorney for Defendant, Arthur McKenzie

George Conits, Esq.
United States Department of Justice
151 Meeting Street, Suite 200
Charleston, South Carolina 29402
GEORGE.CONITS@USDJOY.GOV
*Attorney for United States of America, acting by and
through its agency, The Internal Revenue Service*

Tasha Thompson, Esq.
South Carolina Department of Revenue
Office of General Counsel
Tax and Regulatory Services
Post Office Box 12265
Columbia, South Carolina 29211
thompst@sctax.org
Attorneys for SC Department of Revenue

Mr. Marion L. Driggers
3497 Hebron Road
Lake City, SC 29560
mldriggers@yahoo.com
Defendant, Pro Se

PRITCHARD LAW GROUP, LLC

/s/ ELIZABETH F. FULTON, ESQ.
Elizabeth F. Fulton

July 28, 2016
Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

SOUTH CAROLINA FARM BUREAU
MUTUAL INSURANCE COMPANY,

2014-CP-45-132

FILED

Plaintiff (s)

v.

8/15/2016
Williamsburg County
Circuit Court
Kingwood SC

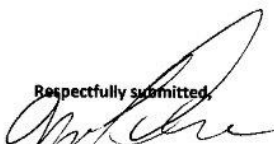
MARION L. DRIGGERS, SHIRALEE
DRIGGERS, TAMMY D. FLOYD, ARTHUR
a/k/a ARTHUR MCKENZIE, THE
TRAVELERS HOME AND MARINE
INSURANCE COMPANY, THE UNITED
STATES OF AMERICA ACTING BY AND
THROUGH THE INTERNAL REVENUE
SERVICE, AND THE SOUTH CAROLINA
TAX COMMISSION.

DEFENDANT
MARION L. DRIGGERS
ANSWER TO
SOUTH CAROLINA FARM
BUREAU MUTUAL INSURANCE COMPANY

Defendant (s).

I, Marion L. Driggers, defendant, deny the charges of misrepresentation and breach of contract, and demand strict proof thereof. I intend to prove the opposite at trial. I ask the court to review the terms of the Supreme Court opinion "*Tyger River Pine vs Maryland Casualty*" to litigate this case. It is imperative that innocent clients be protected from unethical insurance companies like Travelers Home and Marine Insurance Company and South Carolina Farm Bureau Mutual Insurance Company. As to Pritchard Law Firm's request to change owner of the policy to Floyd is irresponsible. I have already established an "insurable interest" and it shall remain as is.

Respectfully submitted,


MARION L. DRIGGERS
3497 HEBRON ROAD
LAKE CITY, SC 29560

August 10, 2016

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG) IN THE COURT OF COMMON PLEAS
 THIRD JUDICIAL CIRCUIT
Case No: 2014-CP-45- 132

South Carolina Farm Bureau Mutual)
Insurance Company,)

Plaintiff,

VS.

REPLY

Marion L. Driggers, Shiralee Driggers,)
 Tammy D. Floyd, Arthur McKenzie, a/k/a)
 Auther McKenzie, The Travelers Home)
 and Marine Insurance Company, The)
 United States of America acting by and)
 through its agency, The Internal Revenue)
 Service and The South Carolina Tax)
 Commission,)

Defendants.

TO: The Parties By Their Counsel of Record:

The Plaintiff, SOUTH CAROLINA FARM BUREAU MUTUAL INSURANCE COMPANY (Hereinafter referenced as "SCFB"), *first reserving its rights under any Motions filed herewith, previously filed, or alleged herein, replies to the "Answer, Counterclaims and Cross-Claims of Defendants Shiralee Driggers and Tammy D. Floyd To Plaintiff's Amended Complaint"* herein, and would show unto this Honorable Court as follows:

1. Each allegation of the Amended Answer not hereinafter specifically admitted, qualified or otherwise explained is deemed denied and strict proof demanded thereof.

FOR A FIRST DEFENSE
(Response to Allegations)

2. Each of the foregoing allegations is incorporated by reference herein as fully as though repeated verbatim.
3. The allegations of Paragraphs 1-25 are responsive to allegations of the Plaintiff's Amended Complaint and do not appear to require a response from the Plaintiff. However, to any extent such a response is required they are denied and, in further response, the Plaintiff re-alleges and incorporates the allegations of its Amended Complaint.
4. Paragraphs 26 and 27 are denied, and SCFB alleges that it is S. Driggers and T. Floyd whose waiver, estoppel and laches bar their claims and/or rights in the subject insurance contract, to the extent the same exist.
5. In response to Paragraph 28, SCFB incorporates the foregoing allegations and those of its Amended Complaint, which is of record in this matter.
6. Only so much of Paragraph 29 as alleges that certain payments were received from Driggers is admitted. The balance of the Paragraph is denied and the allegations of the Plaintiff's Amended Complaint are incorporated herein by way of further response. Plaintiff alleges that issues relative to coverage are to be determined by the Court pursuant to the pending Declaratory Judgment action.
7. In response to Paragraph 30, SCFB incorporates the foregoing allegations and those of its Amended Complaint, which is of record in this matter.
8. Paragraph 31 is denied.
9. In response to Paragraph 32, SCFB incorporates the foregoing allegations and those of its Amended Complaint, which is of record in this matter.

10. Paragraph 33 is denied.

11. In response to Paragraph 34, SCFB incorporates the foregoing allegations and those of its Amended Complaint, which is of record in this matter.

12. Paragraph 35 is denied.

13. In response to Paragraph 36, SCFB incorporates the foregoing allegations and those of its Amended Complaint, which is of record in this matter.

14. In response to Paragraph 32, Plaintiff alleges that it is SCFB which lacked contractually required notice of and an adequate opportunity to investigate the underlying fire and the circumstances of the ownership/occupancy of the subject premises, as alleged in its Amended Complaint, which is incorporated herein.

15. In response to Paragraph 37, SCFB also waives and reserves all rights to assert any defenses or additional defenses.

16. In response to Paragraph 38, SCFB incorporates the foregoing allegations and those of its Complaint, which is of record in this matter.

17. Paragraphs 39 and 40 are denied and as to Paragraph 41, Plaintiff alleges that the legal interest and/or beneficial interests to the described property are as shown by the record and the court record, which show that these interests, at the time of the loss, were shared by Defendants Driggers, Floyd and Driggers with Defendant McKenzie, although Plaintiff had no knowledge of such as McKenzie's interest.

18. Upon information and belief, Paragraph 42 is admitted.

19. Paragraph 43 is admitted in part and denied in part, since at the time of the loss, the legal and/or beneficial ownership to the property was shared by Defendants Driggers, Floyd and Driggers along with Defendant McKenzie, and despite the name shown on the record,

Defendants Driggers and Driggers continue to claim an ownership interest in the property and Defendant Floyd was not an insured under the Plaintiff's policy.

20. Plaintiff admits only so much of Paragraph 44 as alleges that SCFB is in the insurance business in South Carolina.

21. Plaintiff admits only so much of Paragraphs 45 as alleges that a policy contract of insurance existed for a period that included the date of loss, but Plaintiff denies that the policy was binding for all of the reasons stated in Plaintiff's Amended Complaint, which is incorporated herein by reference. Further, the policy contract was subject to terms and conditions as stated therein, reference to which is craved as forming a part of this allegation, inclusive of the insured's obligations to protect the Plaintiff's rights in a number of ways, particularly including giving timely notice of a loss.

22. Paragraphs 46 and 47 are denied as Driggers and/or Driggers represented that they were acting on their own behalf as owners of the property in entering the insurance contract and no ownership interest or agency with Floyd was disclosed and none was disclosed or is alleged as to McKenzie.

23. Paragraph 48 is denied because while fire is a peril covered by the policy, it is only covered based upon complete and truthful representations by the insured, including those on the policy application, and is subject to the insured's compliance with the terms and conditions, including giving Plaintiff timely notice of a loss and the opportunity to timely investigate the same.

24. As to Paragraph 49, the Plaintiff now understands that a fire occurred on the subject property on November 26, 2009, although the Plaintiff received no notice of the fire for almost

three (years), meaning that the insured(s) late notice substantially prejudiced Plaintiff's rights to timely notice and a full investigation of the loss.

25. Paragraph 50 is denied because fire is only a covered peril if the policy was issued based on true, correct, full and complete representations by the insureds, if the obligations of the insured(s) are met, inclusive of those pertaining to timely notice and an opportunity to investigate, if the loss is not excluded and if the terms and conditions of the policy are fulfilled and/or met.

26. Paragraph 51 is denied. The Plaintiff has no insurance relationship with Floyd as to the property. Driggers and Driggers falsely represented that they owned the property, and never represented that they acted as agents for an undisclosed owner, as insurance could not have been issued under such circumstances, since SCFB insures only members of the Farm Bureau Federation and the true and legal owner would had had to establish her membership and entitlement to be considered for cover. Further, Driggers, Driggers and Floyd failed to comply with the terms and conditions of the policy, particularly including those requiring timely notice and an opportunity to timely investigate, substantially prejudicing SCFB's rights. The timely notice and opportunity to investigate a fire loss requires that a claim be made, a full and complete Proof of Loss be completed, and full authorization to investigate the circumstances of the loss and the circumstances of the insureds, who must be the owners of the property. Without the completion of the full claims process, a social comment to an insurance agent made while the agent was on his own business and not about the Plaintiff's business could not constitute timely notice and an opportunity to investigate as it failed to include completion and submission of the claims forms that gave SCFB the right to investigate.

27. Paragraph 52 is denied and reference to the full policy, inclusive of the application, declarations, policy provisions, terms and conditions, exclusions and addenda is craved and is incorporated herein by reference.

28. Paragraph 53 is denied as no benefits are due to Floyd who was not an insured and never established her membership in the Farm Bureau Federation, nor completed an application, never disclosed her interest and lacked privity with Farm Bureau as to the Policy. Additionally, any benefits due, which are denied, are subject to the terms and conditions of the policy and to losses having actually been incurred (ie; damage instead of destruction of the now repaired dwelling, Driggers' contents in McKenzie's occupied property, damages for loss of rental value to property not being rented, additional living expenses for Driggers when Driggers did not occupy the subject property). Further, benefits under the policy to Driggers, if any, are subject to the policy's "other insurance" clause and the South Carolina pro rata statute.

29. Paragraph 54 is denied. Floyd was not a named insured under the policy, was not a disclosed principal, and had no privity of contract with Farm Bureau. Further, instead of denying Driggers' claim, because of the complex facts, issues and legal issues involved, the Plaintiff has brought this action asking the Court to declare coverage and the rights and obligations of all parties.

30. Paragraphs 55, 56, and 57 are denied. SCFB denies bad faith or breach and affirmatively alleges that in bringing this Declaratory Judgment action it has acted reasonably and in good faith, particularly in view of the complex facts, issues, and coverage issues in this matter, and particularly in view of Travelers failure to act in accord with applicable law to pro rate coverage due, if any.

31. In response to Paragraph 58, SCFB incorporates the foregoing allegations and those of its Amended Complaint, which is of record in this matter.

32. Paragraphs 59, 60, 61, 62 and 63 are denied and SCFB affirmatively alleges that it acted reasonably, in good faith, and in accord with the terms and conditions of the policy and South Carolina law.

33. In response to Paragraph 64, SCFB incorporates the foregoing allegations and those of its Complaint, which is of record in this matter.

34. Plaintiff admits that this action should be tried by a Judge, but otherwise, Paragraph 65 is denied and strict proof is demanded thereof. The Plaintiff denies any allegation or implication that it acted unreasonably or in bad faith and it alleges that under the present complex situation, until the Court declares the rights of the parties and whether coverage exists, it has not been determined whether the loss is covered by the policy. Having denied the allegations and implications of Paragraph 65, the Plaintiff submits it to the Court for determination.

35. Paragraphs 66, 67 and 68 are denied, and SCFB alleges that it acted with reasonable cause and in good faith in filing this Declaratory Judgment action. Further, SCFB alleges that it lacks privity with Floyd who, as alleged above, is not an insured, and it denies having "refused to pay" and alleges that under the facts and circumstances of this case, it acted reasonably and in good faith in seeking the Court's determination of the rights and duties of the parties.

36. Paragraphs 69-111 do not appear to be directed to SCFB nor to require a response from SCFB. To any extent the said Paragraphs allege negligence, fault, unreasonable acts or failures to act, bad faith, breach or other culpable conduct as to SCFB, they are denied and strict proof thereof is demanded.

37. In response to Paragraph 112, Plaintiff re-alleges the foregoing allegations and incorporates them by reference, and also incorporates all allegations of its Amended Complaint and incorporates allegations to be made in its Supplemental Complaint.

38. Paragraphs 113 through 116 are denied and strict proof is demanded thereof. In asking that this Court declare that Marion Driggers had no interest in the subject property other than as agent for his daughter, and in asking the Court to declare that Marion Driggers has no interest in the Farm Bureau Policy, Defendants Floyd and Shiralee Driggers ask the Court to re-write the policy and contradict the basis of the claimed interests in the subject property and all representations as to ownership made at all points, including at points previous to this action, and including to this Court in prior eviction actions resulting in a Court Order that McKenzie insure Driggers' interests, including the policy application by Driggers, the claim on the policy by Driggers, the resulting testimony under oath by Shiralee Driggers and Marion Driggers, and including all pleadings to date in this action. This allegation of agency is of particular import for the following reasons: (1) it affects whether Driggers and Driggers had an insurable interest in the property; (2) it affects whether a claim was ever made for the subject fire loss as the investigation of a fire loss must give the company the right to investigate the circumstances of the fire AND the circumstances and finances of the owner(s) and if Driggers and Driggers did not own the property, then no claim was ever made for coverage for this loss; and (3) the Plaintiff insurance company only offers coverage to members of the South Carolina Farm Bureau Federation, and unless all interests are declared, then insurance coverage can not issue from the Plaintiff Company; and (4) it changes the basis for this action and requires supplemental pleadings by the Plaintiff. Should the Court grant the requested declaration that Marion Driggers had no ownership interest and was only an agency, the Plaintiff asks that the Court grant it all

relief to be requested in its Supplemental Complaint, and all motions referenced below, inclusive of the dismissal of all Counterclaims against it by Driggers, Driggers or Floyd.

FOR A SECOND DEFENSE
(Contributory or Comparative Negligence)

38. Each of the foregoing allegations is incorporated herein by reference as fully as though the same were repeated verbatim.

39. If the pleading Defendants have suffered any damage, which is denied, said damages are due to and proximately caused by their own contributory or comparative negligence and recklessness in an amount exceeding any alleged negligence or recklessness on the part of Plaintiff, and Defendants' negligence is a partial or complete bar to its recovery.

40. The Plaintiff pleads comparative or contributory negligence as a complete and affirmative defense.

FOR A THIRD DEFENSE
(Failure to Mitigate)

41. Each of the foregoing allegations is incorporated herein by reference as fully as though the same were repeated verbatim

42. Upon information and belief, the Defendants' claims are barred in whole or in part by their failure to mitigate damages by failing to exercise reasonable care, and failure to undertake proper preventative or curative measures, inclusive of timely notifying the Plaintiff of the loss and making a claim, thus giving the Plaintiff the timely opportunity to investigate.

FOR A FOURTH DEFENSE

(Good Faith)

43. Each of the foregoing allegations is incorporated by reference herein as fully as though the same were repeated verbatim.

44. The Plaintiff has at all times acted in good faith and with a proper motive in connection with this claim, based upon the information given to and/or known by the Plaintiff and it therefore pleads its proper motive and good faith as a full and affirmative defense.

FOR A FIFTH DEFENSE(RULE 8 AND 12 DEFENSES AND
12(B)(6) MOTION TO DISMISS)

45. Each of the foregoing allegations is incorporated by reference herein as fully as though repeated verbatim.

46. Plaintiff asserts all affirmative defenses under and pursuant to Rules 8 and 12, South Carolina Rules of Civil Procedure, including the defense of failure to state a cause of action for which relief can be granted pursuant to Rule 12 (b)(6) and Plaintiff is informed and believes that said Complaint should be dismissed with prejudice. Plaintiff particularly moves the Court for dismissal based upon the pleading Defendants' contentions that Driggers and Drrigers owned no legal or beneficial ownership interest in the property and that all proceeds of the Farm Bureau Policy therefore belong to Defendant Floyd. Based upon these contentions, and because the Farm Bureau Policy covered only Defendants Driggers, who represented they solely owned the property: (a) Defendants Driggers as agents had no independent insurable interest in the property; (b) Defendant Floyd did not apply for nor did she ever receive Farm Bureau coverage; (c) Defendants Driggers could not make a claim for this Fire Loss if they did not own the

property and Defendant Floyd never made a claim giving Farm Bureau the right to investigate the circumstances of her loss and her personal and financial circumstances; (d) The Plaintiff could not issue coverage to an undisclosed Principal because the Plaintiff company only issues coverage to members of the Farm Bureau Federation and without disclosure and verification by Floyd, the Policy could not issue; (e) Defendant Floyd was never insured for this property by Farm Bureau and has no right to file claims nor to receive any policy proceeds; (f) Farm Bureau has no contractual relationship nor any privity with Defendant Floyd; and (g) Farm Bureau owes no duty to Defendant Floyd.

FOR A SIXTH DEFENSE
(Unclean Hands)

47. Each of the foregoing allegations is incorporated by reference herein as fully as though repeated verbatim.

48. Plaintiff alleges that to the extent that the Defendants seek equitable relief or call upon the equitable powers of this Court, Defendants inequitable conduct and willingness to attempt to contradict all prior representations and sworn accounts as to ownership in order to attempt to gain financial advantage in terms of this action and the allocation statute constitutes unclean hands and bars the granting of relief to them.

FOR A SEVENTH DEFENSE
(Waiver)

49. Each of the foregoing allegations is incorporated by reference herein as fully as though repeated verbatim.

50. Plaintiff is informed and believes and on such information and belief alleges that Defendants were engaged in conduct, including changing allegations as to ownership and/or including misrepresenting the status of property ownership and including various misrepresentations on the application for coverage, all of which constitute a waiver of their rights under the contract alleged, if any, which is denied. By reason of said waiver, the Plaintiff is excused from further performance of the obligations under the contract, if any.

FOR AN EIGHTH DEFENSE
(Equitable Estoppel)

51. Each of the foregoing allegations is incorporated by reference herein as fully as though repeated verbatim.

52. Plaintiff alleges that each and every Cause of Action against SCFB alleged by Defendants is barred by reason of acts, omissions, representations and courses of conduct by the Defendants, including, but not limited to, Defendants giving sworn accounts and applying for coverage and filing a claim based on representations that they had an ownership interest, and then changing their account to serve financial and strategic purposes, byall of which Plaintiff was led to rely to its detriment, thereby barring, under the doctrine of equitable estoppel, any Causes of Action asserted by the Defendants.

FOR A NINTH DEFENSE
(Reservation of Right to Amend)

53 Plaintiff re-alleges and incorporates the foregoing allegations herein by reference, as fully as though the same were repeated verbatim.

54. Plaintiff reserves the right to amend this pleading and assert all additional defenses, including affirmative defenses, which the discovery process indicates may be applicable to this matter and it reserves the right to assert all such defenses and does not waive any additional or further defenses including affirmative defenses.

**FOR A TENTH DEFENSE
(Punitive Damages Defense)**

55. Plaintiff re-alleges and incorporates the foregoing allegations herein by reference, as fully as though the same were repeated verbatim.

56. An award of punitive damages against Plaintiff, directly or by indemnification, under South Carolina and/or Federal law, violates the fifth, Sixth, and Fourteenth Amendments of the United States Constitution and Article I, §3 of the South Carolina Constitution in that:

- a. The judiciary's ability to correct a punitive damage award only upon a finding of passion, prejudice or caprice is inconsistent with due process guarantees;
- b. Any award of punitive damages serving a compensatory function is inconsistent with due process guarantees;
- c. Any award of punitive damages based upon the wealth of the Plaintiff violates due process guarantees;
- d. The jury's unfettered power to award punitive damages in any amount it chooses is wholly devoid of meaningful standards and is inconsistent with due process guarantees;
- e. Even if it could be argued that the standard governing the imposition of punitive damages exists, the standard is void for vagueness; and

- f. The Defendants' claim for punitive damages violates the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution and Article I, §3 of the South Carolina Constitution in that the amount of punitive damages is based upon the wealth of the Plaintiff.

57. The Defendants claims for punitive damages violates the federal doctrine of separation of powers and Article I, §3 of the South Carolina constitution for the reason that punitive damages are a creation of the judicial branch of government, which invades the province of the legislative branch of government.

FOR AN ELEVENTH DEFENSE
(Res Judicata/Collateral Estoppel)

58. Plaintiff re-alleges and incorporates the foregoing allegations herein by reference, as fully as though the same were repeated verbatim.

59. As to Defendants' new claim that Driggers and Driggers had no ownership interest in the property and that Floyd is the sole owner of the property, Defendants plead Res Judicata and/or Collateral Estoppel, to any extent that the issue of ownership has considered and ruled upon during prior litigation, inclusive of prior litigation relative to the property.

FOR A TWELFTH DEFENSE
(Lack of Privity/No Contract)

60. Plaintiff re-alleges and incorporates the foregoing allegations herein by reference, as fully as though the same were repeated verbatim.

61. Plaintiff alleges that it has never had a contract or policy of insurance with Defendant Floyd and it therefore pleads lack of privity and the absence of a contract of insurance as a full and complete defense to the Defendants' claims.

FOR A THIRTEENTH DEFENSE
(No Duty/No Duty of Good Faith)

62. Plaintiff re-alleges and incorporates the foregoing allegations herein by reference, as fully as though the same were repeated verbatim.

63. Because no contract or policy of insurance between Floyd and the Plaintiff has ever existed as to the subject property, the Plaintiff has no duty to Defendant Floyd and no duty of Good Faith or Fair dealing to Defendant Floyd and the Plaintiff pleads lack or absence of duty as a full and complete defense to this action.

WHEREFORE, having replied to the Amended Answer, Counterclaims and Cross Claims of the Defendants herein, the Plaintiff asks for a jury trial, that the Defendants' Amended Answer, Counterclaims and Cross Claims be dismissed with prejudice and that it have judgment as prayed for herein and in its Complaint, which is incorporated herein by reference, and for such other and further relief as this Court deems just and proper.

/s/ J. Dwight Hudson

J. Dwight Hudson, Esquire
SC Bar # 2753
Hudson Law Offices
PO Box 70218
Myrtle Beach, SC 29572
(843) 692-9889
Attorney For: Plaintiff

Dated: August 29, 2016

CERTIFICATION OF SERVICE

This is to certify that the foregoing was served by HUDSON LAW OFFICES by and through its agents, servants and employees on August 29, 2016 by Efiling and Eservice, subsequently confirmed by a "hard copy" mailed to the pro se Defendant - as noted below

William P. Davis
Baker Ravenel & Bender, LLP
PO Box 8057
Columbia, SC 29202
Email: wdavis@brblegal.com
Attorney for Traveler's

Daryl J. Corbin Esq.
Attorney at Law
PO Box 447
Florence, SC 29503-0447
Email: corbinlawfirm@corbinlawsc.com
Attorney for McKenzie

Tasha Thompson Esq.
SC Department of Revenue
300 A Outlet Pointe Blvd.
PO Box 12265
Columbia, SC 29211
Email: thompst@sctax.org
Attorney for SC Dpt of Revenue

Matthew J. Modica Esq.
U.S. Attorney's Office
151 Meeting St., Ste. 200
Charleston, SC 29401
Email: matthew.j.modica@usdoj.gov
Attorney for The United States of America

Edward K. Pritchard III Esq.
Elizabeth F. Fulton, Esq.
Pritchard Law Group LLC
129 Broad Street
Charleston, SC 29401
Email: epritchard@pritchardlawgroup.com
Liz@PritchardLawGroup.com
**Attorney for S Driggers
and T. Floyd**

Mr. Marion L. Driggers
3497 Hebron Road
Lake City, SC 29560
Email: mldriggers@yahoo.com
Pro Se/Self Represented

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG
South Carolina Farm Bureau Mutual
Insurance Company,

Plaintiff,

v.

Marion L. Driggers, et *al.*,
Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO: 2014-CP-45-00132

ANSWER TO CROSS CLAIM OF THE
UNITED STATES OF AMERICA AND
CONSENT TO REFERENCE

COMES NOW, the United States of America, by and through its agency,
Internal Revenue Service, and answering the **Cross-Claim** previously filed herein,
would show unto the Court that:

1. Each and every allegation of the **Cross-Claim** not hereinafter admitted or otherwise explained is denied and strict proof demanded thereof.
2. This Defendant admits only those allegations as set forth in the **Cross-Claim** that the United States may hold an interest in the subject property and/or proceeds.
3. This Defendant lacks sufficient knowledge of and therefore denies and demands strict proof of the remaining allegations of the **Cross-Claim**.
4. This Defendant consents to reference to a Master-in-Equity or Special Referee of Plaintiff's choosing under such terms as Plaintiff deems appropriate.

WHEREFORE, the defendant, United States of America, on behalf of its agency, Internal Revenue Service, prays that its lien(s) be prioritized and satisfied from the sale proceeds, that its statutory right of redemption, if any, 28 U.S.C. § 2410(c), be protected.

BETH DRAKE
ACTING UNITED STATES ATTORNEY

By: s/ George J. Conits
George J. Conits (#1356)
Assistant United States Attorney
55 Beattie Place, Suite 700
Greenville, South Carolina 29601
Phone No.: (864) 282-2100
Fax No.: (864) 282-2145

Greenville, South Carolina
September 6, 2016

CERTIFICATE OF SERVICE BY MAIL

The undersigned Assistant United States Attorney hereby certifies that he/she has caused service of the attached **ANSWER** by a legal assistant employed in the Office of the United States Attorney for the District of South Carolina and is a person of such age and discretion as to be competent to serve papers.

On September 6, 2016, a legal assistant served copies of the foregoing document by placing said copies in a postpaid envelope addressed to the person (s) hereinafter named, at the place (s) and address (es), and by depositing said envelope and contents in the United States Mail at the U.S. Attorney's Office, 55 Beattie Place, Suite 700, Greenville, SC 29601.

Addressee:
PRITCHARD LAW GROUP, LLC
Attn: Elizabeth F. Fulton
129 Broad Street
Charleston, SC 29401

s/ George J. Conits
George J. Conits
Assistant U.S. Attorney

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF WILLIAMSBURG	)	C/A NO.: 2014-CP-44-00132
	)	
South Carolina Farm Bureau Ins. Co.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	THE TRAVELERS HOME AND
	)	MARINE INSURANCE COMPANY'S
Marion L. Driggers, Shiralee Driggers,	)	ANSWER TO THE CROSS-CLAIMS OF
Tammy D. Floyd, Arthur McKenzie, a/k/a	)	DEFENDANTS SHIRALEE DRIGGERS
Auther McKenzie, The Travelers Home	)	AND TAMMY D. FLOYD
and Marine Insurance Company,	)	
The United States of America acting by	)	
and through its agency, The Internal	)	
Revenue Service and The South Carolina	)	
Tax Commission	)	
	)	
Defendant.	)	

Defendant The Travelers Home and Marine Insurance Company, (hereinafter "Travelers") hereby answers the cross-claims of Defendants Shiralee Driggers and Tammy D. Floyd (hereinafter collectively "Floyd and Driggers") as follows:

FOR A FIRST DEFENSE

1. Travelers denies each and every allegation of the cross-claims not hereinafter specifically admitted, qualified, or explained.
2. The allegations contained in paragraphs thirty-eight (38) through sixty-eight (68) are directed to other parties, as a result of which no response from Travelers is required.
3. Travelers admits the allegations contained in paragraph seventy (70).
4. On information and belief, Travelers admits so much of paragraph seventy-one (71) as alleges that Defendants Floyd and Driggers and Defendant Marion L. Driggers (hereinafter "Mr. Driggers") entered in to a written contract with Lisa Gamble (hereinafter

“Gamble”) and Defendant Arthur McKenzie, a/k/a Auther McKenzie (hereinafter “McKenzie”) wherein Gamble and McKenzie agreed to purchase the subject property pursuant to the terms of the contract which is recorded with the Office of Williamsburg County Clerk of Court on February 10, 1998 in Book A-402, Page 115, but Travelers denies the remaining allegations contained in paragraph seventy-one (71).

5. On information and belief, Travelers admits the allegations contained in paragraph seventy-two (72).

6. On information and belief, Travelers admits so much of paragraph seventy-three (73) as alleges that, pursuant to the Order filed July 10, 1996, Defendant McKenzie was required to procure insurance on the subject property with a loss payable clause in favor of Defendants Floyd and Driggers and Defendant Mr. Driggers, and that, pursuant to the contract described in paragraph four (4) above, Gamble and McKenzie were required to procure insurance (homeowners, fire and extended coverage) with a loss payable clause, but Travelers denies the remaining allegations of paragraph seventy-three (73).

7. Travelers admits the allegations contained in paragraph seventy-four (74).

8. Travelers admits so much of paragraph seventy-five (75) as alleges that McKenzie did not list Defendants Floyd and Driggers and Defendant Mr. Driggers as additional named insureds and/or loss payees under Travelers’ policy, but Travelers lacks sufficient information to form a belief as to the remaining allegations of paragraph seventy-five (75) and those allegations are therefore denied.

9. Travelers’ subject policy is a document that is its own best evidence and speaks for itself. To the extent that paragraph seventy-six (76) mischaracterizes or inaccurately summarizes Travelers’ subject policy, Travelers denies those allegations.

10. Travelers admits so much of paragraph seventy-seven (77) as alleges that Travelers' policy did not list Defendants Floyd and Driggers and Defendant Mr. Driggers as loss payees. Further, Travelers' subject policy is a document that is its own best evidence and speaks for itself. To the extent that paragraph seventy-seven (77) mischaracterizes or inaccurately summarizes Travelers' subject policy, Travelers denies those allegations.

11. Travelers admits the allegations contained in paragraph seventy-eight (78).

12. Travelers denies the allegations contained in paragraph seventy-nine (79).

13. Travelers admits so much of paragraph eighty (80) as alleges that Travelers' subject policy constitutes a contract of insurance between Travelers and Defendant McKenzie, but Travelers denies the remaining allegations of paragraph eighty (80).

14. Travelers admits the allegations contained in paragraph eighty-one (81).

15. Travelers denies the allegations contained in paragraph eighty-two (82).

16. Travelers can neither admit nor deny the allegations contained in paragraph eighty-three (83) because Travelers denies that it provides any coverage whatsoever to the Defendants Floyd and Driggers and Defendant Mr. Driggers. In the event that said policy is deemed to provide any such coverage, Travelers reserves the right to rely on any exclusions that may be applicable.

17. Travelers denies the allegations contained in paragraph eighty-four (84).

18. Travelers admits so much of paragraph eighty-five (85) as alleges that Travelers has refused to pay Defendants Floyd and Driggers and Defendant Mr. Driggers benefits under its policy, but Travelers denies the remaining allegations of paragraph eighty-five (85).

19. Travelers denies the allegations contained in paragraphs eighty-six (86), eighty-seven (87), and eighty-eight (88).

20. Answering paragraph eighty-nine (89), Travelers repeats and realleges the preceding paragraphs of its answer.

21. Travelers admits the allegations contained in paragraph ninety (90), but denies that the Defendants Floyd and Driggers and Defendant Mr. Driggers are parties to the Travelers insurance contract.

22. Travelers denies the allegations contained in paragraphs ninety-one (91), ninety-two (92), ninety-three (93), and ninety-four (94).

23. Answering paragraph ninety-five (95), Travelers repeats and realleges the preceding paragraphs of its answer.

24. Travelers admits so much of the allegations contained in paragraph ninety-six (96) as alleges that more than ninety (90) days has elapsed since Defendants Floyd and Driggers and Defendant Mr. Driggers made their demand on Travelers.

25. Travelers denies the allegations contained in paragraph ninety-seven (97) and ninety-eight (98).

26. The allegations contained in paragraphs ninety-nine (99) through one hundred and two (102) are directed to another defendant, as a result of which no response from Travelers is required. To the extent that a response is deemed to be required, Travelers denies same.

27. Answering paragraph one hundred and three (103), Travelers repeats and realleges the preceding paragraphs of its answer.

28. The allegations contained in paragraph one hundred and four (104) through one hundred and ten (110) are directed to other defendants, as a result of which no response from Travelers is required.

29. Travelers denies the allegations contained in paragraph one hundred and eleven

(111) as they relate to its policy. Further, Travelers affirmatively alleges that no sums are due or owed to Defendants Floyd and Driggers and Defendant Mr. Driggers under Travelers' subject policy.

30. Answering paragraph one hundred and twelve (112), Travelers repeats and realleges the preceding paragraphs of its answer.

31. The allegations contained in paragraphs one hundred and thirteen (113) through one hundred and fifteen (115) are directed to another defendant, as a result of which no response from Travelers is required.

32. Travelers denies the allegations contained in paragraph one hundred and sixteen (116) as they relate to its policy. Further, Travelers affirmatively alleges that no sums are due or owed to Defendants Floyd and Driggers and Defendant Mr. Driggers under Travelers' subject policy.

FOR A SECOND DEFENSE

33. Cross-claimants have failed to set forth sufficient facts to constitute a cause of action against Travelers.

FOR A THIRD DEFENSE

34. Cross-claimants are without standing to prosecute their cross-claims against Travelers.

FOR A FOURTH DEFENSE

35. Cross-claimants lack the capacity to prosecute their cross-claims against Travelers.

FOR A FIFTH DEFENSE

36. Even if cross-claimants had any claims to assert against Travelers (which is

expressly denied), said claims would be barred by the applicable statute of limitations.

FOR A SIXTH DEFENSE

37. Even if cross-claimants had any claims to assert against Travelers (which is expressly denied), said claims would be barred by the doctrine of laches.

FOR A SEVENTH DEFENSE

38. Travelers did not issue any policy of insurance covering or relating to the subject property to cross-claimants, or any of them, nor are they depicted as loss payees or mortgagees on any such policy, and they are therefore strangers to the subject policy with no rights in connection therewith.

FOR AN EIGHTH DEFENSE

39. Any damages or injuries sustained by cross-claimants, or any of them, are the result of their own inaction, delay, negligence and recklessness.

FOR A NINTH DEFENSE

40. Even if cross-claimants have any claims against Travelers (which is expressly denied), they are barred by the doctrine of waiver.

WHEREFORE, having fully answered the cross-claims, Travelers respectfully prays that said cross-claims be dismissed with costs; and for such other and further relief as this Court may deem just and proper.

s/William P. Davis

William P. Davis
 Mariel D. Norton
 BAKER, RAVENEL & BENDER, LLP
 Post Office Box 8057 (29202)
 3710 Landmark Drive, Suite 400
 Columbia, SC 29204
 Telephone: (803) 799-9091; Fax: (803) 779-3423
wdavis@brblegal.com; mnorton@brblegal.com
Attorneys for The Travelers Home and Marine Insurance Company

September 12, 2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF WILLIAMSBURG	)	C/A NO.: 2014-CP-44-00132
South Carolina Farm Bureau Ins. Co.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	ANSWER TO AMENDED COMPLAINT,
	)	CROSS-CLAIMS FOR INTERPLEADER,
	)	AND COUNTERCLAIM FOR
Marion L. Driggers, Shiralee Driggers,	)	CONTRIBUTION OF DEFENDANT THE
Tammy D. Floyd, Arthur McKenzie, a/k/a	)	TRAVELERS HOME AND MARINE
Auther McKenzie, The Travelers Home	)	INSURANCE COMPANY
and Marine Insurance Company,	)	(Non-Jury)
The United States of America acting by	)	
and through its agency, The Internal	)	
Revenue Service and The South Carolina	)	
Tax Commission	)	
	)	
Defendant.	)	

Defendant The Travelers Home and Marine Insurance Company, (hereinafter "Travelers") hereby answers Plaintiff's Amended Complaint as follows:

FOR A FIRST DEFENSE

1. Each and every allegation of the Amended Complaint not hereinafter specifically admitted, qualified or explained is denied.
2. On information and belief, Travelers admits the allegations contained in paragraphs one (1) through seven (7) of the Amended Complaint.
3. Travelers admits so much of paragraph eight (8) as alleges that, on or about November 26, 2009, a fire damaged the subject property.
4. Travelers admits so much of paragraph nine (9) as alleges that the title to the subject property was in the name of Defendant Tammy D. Floyd, the daughter of Defendants Marion L. Driggers and Shiralee Driggers. Travelers is without knowledge or information

sufficient to form a belief as to the truth of the remaining allegations contained in paragraph nine (9), and said allegations are therefore denied.

5. On information and belief, Travelers admits so much of paragraph ten (10) as may be construed to allege that, at the time of the subject loss, Defendant Arthur McKenzie was a resident of the subject property and that he had entered into an agreement, to which Travelers craves reference for its exact terms and conditions. Travelers is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph ten (10).

6. Travelers admits so much of paragraph eleven (11) as alleges that, at the time of the subject loss, Defendant McKenzie did insure the subject property via a policy with Travelers, and that he did not note any interests of Defendants Driggers. Travelers craves reference to the agreement referenced in paragraph eleven (11) for its exact terms and conditions. Travelers is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph eleven (11).

7. Travelers admits the allegations contained in paragraph twelve (12) and craves reference to said policy for its exact terms and conditions.

8. On information and belief, Travelers admits so much of paragraph thirteen (13) as alleges that Defendants Driggers also insured the property, obtaining coverage through the Plaintiff South Carolina Farm Bureau Mutual Insurance Company. Travelers is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph thirteen (13).

9. On information and belief, Travelers admits the allegations contained in paragraph fourteen (14), and craves reference to the Farm Bureau policy for its exact terms and

conditions.

10. Travelers admits so much of paragraph fifteen (15) as alleges that Defendant Arthur McKenzie and Defendants Marion L. Driggers and Shiralee Driggers have made claims under their separate policies with Travelers and Plaintiff respectively. Travelers is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph fifteen (15).

11. Paragraph sixteen (16) states a legal conclusion, to which no response is required. To the extent that a response is deemed to be required, Travelers admits so much of paragraph sixteen (16) as alleges that the existence and content of S.C. Code Ann. § 38-75-20, but denies the remaining allegations contained in paragraph sixteen (16).

12. On information and belief, Travelers admits the allegations contained in paragraphs seventeen (17) through nineteen (19) of the Amended Complaint, but craves reference to the Farm Bureau policy for its exact terms and conditions, which speak for themselves.

13. The allegations contained in paragraph twenty (20) state a legal conclusion, to which no response is required. To the extent that a response is deemed to be required, Travelers admits so much of paragraph twenty (20) as alleges that the sum of the coverage limits under the Plaintiff's and Travelers' policies exceeds the value of the subject property and denies the remainder of the allegations in said paragraph.

14. Travelers denies the allegations contained in paragraphs twenty-one (21) and twenty-two (22) of the Amended Complaint.

15. Travelers is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs twenty-three (23) and twenty-four (24), and said

allegations are therefore denied.

16. Travelers admits the allegations contained in paragraphs twenty-five (25) through twenty-seven (27).

17. Travelers admits so much of paragraph twenty-eight (28) as alleges that Plaintiff seeks the declarations set forth therein, but denies that it is liable to Plaintiff for any sum whatsoever.

18. Travelers admits so much of paragraph twenty-nine (29) as alleges that Plaintiff seeks an award of costs and attorneys' fees, but Travelers denies that it is liable to Plaintiff for any sum whatsoever.

19. Answering paragraph thirty (30), Travelers repeats and realleges the preceding paragraphs of its Answer.

20. Travelers admits so much of paragraph thirty-one (31) as alleges that Plaintiff seeks an award of costs and attorneys' fees, but Travelers denies that it is liable to Plaintiff for any sum whatsoever. Travelers admits that it provided insurance to McKenzie and had contractual obligations to him in accordance with the insurance contract, the terms and conditions of which speak for themselves. Travelers admits that it denied Driggers' claim and that it was aware that Driggers claimed an interest in the property and may have a policy with Plaintiff, but Travelers denies the remaining allegations contained in paragraph thirty-one (31) as they relate to it. The remaining allegations in said paragraph relate to another Defendant, and no response from this Defendant is required. To the extent that a response is deemed to be required, said allegations are denied.

21. Travelers denies the allegations contained in paragraphs thirty-two (32) through thirty-four (34) as they relate to it. The remaining allegations contained in said paragraphs are

directed to another Defendant, and no response to same from this Defendant is required. To the extent that a response is deemed to be required, said allegations are denied.

22. Travelers admits so much of paragraph thirty-five (35) as alleges that Plaintiff seeks the remedy of equitable indemnity, but denies that Plaintiff is entitled to same and denies the remaining allegations contained in paragraph thirty-five (35).

23. Travelers admits that Plaintiff seeks the declarations set forth in the prayer, but denies that it is liable to Plaintiff, Defendants Driggers or Defendant Floyd for any sum whatsoever.

FOR A SECOND DEFENSE

24. Plaintiff has failed to set forth sufficient facts to constitute a cause of action against Travelers.

FOR A THIRD DEFENSE

25. Any damages or injuries sustained by Plaintiff are the result of its own and/or its own insureds' inaction, delay, negligence and recklessness.

FOR A FOURTH DEFENSE

26. There is no special relationship between Travelers and Plaintiff.

FOR A FIFTH DEFENSE

27. Plaintiff is at least partly at fault for any damages allegedly sustained by its own insureds, Defendants Driggers.

FOR A SIXTH DEFENSE

28. If proration were available as alleged by Plaintiff, which is expressly denied, Plaintiff owes Travelers for its prorated portion.

FOR A SEVENTH DEFENSE

29. This claim is barred by the doctrine of laches.

FOR AN EIGHTH DEFENSE

30. This claim is barred by the doctrine of unclean hands.

**FOR A NINTH DEFENSE AND BY WAY OF CROSS-CLAIMS
(INTERPLEADER)**

31. Travelers repeats and realleges the preceding paragraphs of its Answer and Cross-Claim, as if fully set forth herein.

32. On information and belief, Plaintiff is a corporation organized and existing under the laws of the State of South Carolina and is duly authorized to do business in Williamsburg County, South Carolina.

33. Travelers is a corporation organized under the laws of a state other than South Carolina and is duly authorized to do business in Williamsburg County, South Carolina.

34. On information and belief, Defendant Marion L. Driggers is a citizen and resident of Williamsburg County, South Carolina.

35. On information and belief, Defendant Shiralee Driggers is a citizen and resident of Williamsburg County, South Carolina.

36. On information and belief, Defendant Tammy D. Floyd is a citizen and resident either Williamsburg County, South Carolina or Horry County, South Carolina.

37. On information and belief, Defendant Arthur McKenzie is a citizen and resident of Williamsburg County, South Carolina.

38. On information and belief, Defendant The United States of America, acting by and through its agency the Internal Revenue Service is an agency, division or department of the federal government.

39. On information and belief, Defendant, the South Carolina Department of Revenue, is an agency, division of department of the government of the State of South Carolina.

40. Travelers issued homeowners insurance policy number 984761288 633 1 to Defendant Arthur McKenzie for the period from May 7, 2009 to May 7, 2010.

41. On or about November 26, 2009, the subject property, located at 200 W. Hwy 378 Bypass, Lake City, South Carolina 29560, was damaged by fire.

42. Pursuant to the terms and conditions of its policy and as a result of the fire on November 26, 2009, Travelers has determined that a payment of \$101,355.62 in dwelling coverage and \$68,019.62 in personal property coverage is owed to its insured, Defendant Arthur McKenzie, with sums deducted for depreciation available to be paid upon actual repair or replacement, in accordance with the policy provisions governing same.

43. On information and belief, Defendant United States of America, by and through its agency, The Internal Revenue Service, may have an interest in the aforementioned insurance proceeds by virtue of tax liens against Defendant Arthur McKenzie pursuant to recorded filings in various counties.

44. On information and belief, Defendant South Carolina Department of Revenue may also have an interest in the aforementioned insurance proceeds by virtue of tax liens against Defendant Arthur McKenzie pursuant to recorded filings in various counties.

45. On information and belief, Defendants Marion L. Driggers, Shiralee Driggers and Tammy D. Floyd claim an interest in the aforementioned insurance proceeds.

46. On information and belief, there may be other liens against the subject property.

47. On information and belief, the interests claimed by the Defendants in the subject dwelling exceed the amounts of coverage owed by Travelers under its policy.

48. Defendant seeks to tender to the Court the sum of One Hundred Sixty-Nine Thousand, Three Hundred Seventy-Five and 24/100 (\$169,375.24) Dollars, representing the total amount of dwelling coverage and personal property coverage available to Defendant Arthur McKenzie as named insured under its subject policy, to be distributed by the Court in amounts as the Court deems appropriate.

49. Travelers requests that it be allowed to deposit with the Court the aforementioned sum so that it may be paid to the other Defendants in such amounts as the Court may deem just and proper, if any, conditioned upon Travelers being fully and finally discharged from any and all further liability to Defendants, with the exception of its obligations under the policy with regard to final settlement upon the completion of repair or replacement, in accordance with the policy provisions regarding same; this action being continued between the Plaintiff and the remaining Defendants to the extent they make claims against said funds.

FOR A TENTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Contribution)

50. Travelers denies that Plaintiff is entitled to contribution against it; however, in the event that it is ultimately determined that contribution between Plaintiff and Travelers is appropriate, Travelers seeks contribution from Plaintiff in accordance with the policy provisions and applicable law.

WHEREFORE, having answered the Amended Complaint and asserted a counterclaim, Travelers prays for dismissal from this action and for such other and further relief that this Court deems just and proper, and prays that this Court hear the parties and accept and allow it to deposit \$169,375.24 with the Court upon the following conditions:

(a) that Defendant The Travelers Home and Marine Insurance Company be fully and finally discharged from any and all liability for the aforementioned losses and claims;

(b) that this action be continued among those claimants making claims against the aforementioned funds;

(c) that this Court award those making claims such amounts that the Court shall deem just and proper, if any; and

(d) that, in the event that this Court determines contribution between Plaintiff and Travelers to be available and appropriate, Travelers prays for judgment against Plaintiff on its counterclaim in accordance with the applicable policy provisions and law, together with the costs associated with this action, and for such other and further relief as this Court deems just and proper.

s/William P. Davis

William P. Davis SC Bar No.: 1585

Mariel D. Norton

BAKER, RAVENEL & BENDER, LLP

Post Office Box 8057 (29202)

3710 Landmark Drive, Suite 400

Columbia, SC 29204

Telephone: (803) 799-9091; Fax: (803) 779-3423

wdavis@brblegal.com; mnorton@brblegal.com

Our File: 7746.1749

*Attorneys for The Travelers Home and Marine
Insurance Company*

September 13, 2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG	)	Case No: 2014-CP-45- 132
 South Carolina Farm Bureau Mutual Insurance Company,	)))	
Plaintiff,	)	
vs.	)	Plaintiff's <u>REPLY</u> To The Travelers'
	)	Counterclaims To Amended Complaint
Marion L. Driggers, Shiralee Driggers,	)	
Tammy D. Floyd, Arthur McKenzie, a/k/a	)	
Auther McKenzie, The Travelers Home	)	
and Marine Insurance Company, The	)	
United States of America acting by and	)	
through its agency, The Internal Revenue	)	
Service and The South Carolina Tax	)	
Commission,	)	
Defendants.	)	
	)	

TO: THE PARTIES NAMED ABOVE AND THEIR COUNSEL OF RECORD:

The Plaintiff, above-named, would Reply to The Travelers "Answer To Amended Complaint, Cross Claims For Interpleader And Counterclaim For Contribution Of Defendant, The Travelers Home And Marine Insurance Company" (Hereinafter, "the Answer" or "Travelers Answer") and would show unto this Honorable Court as follows:

1. Each allegation of Travelers Answer not specifically admitted, qualified or explained is deemed denied and strict proof is demanded thereof.

FOR A FIRST DEFENSE
(Response to Allegations)

2. Upon information and belief, Paragraphs 1-5 do not require a response from Plaintiff, but to any extent such a response is required, the same are denied.
3. Paragraph 6 is denied and Plaintiff alleges that the interests of Defendants Driggers, Driggers and Floyd are covered by the Travelers' Policy under the facts of this matter and pursuant to prior rulings of this Court.
4. Upon information and belief, Paragraphs 7-9 do not require a response from Plaintiff, but to any extent such a response is required, the same are denied.
5. In response to Paragraphs 10-23, the Plaintiff alleges that it and Traveler's insured the same property for different parties and otherwise, the Plaintiff believes the allegations do not require a response but to any extent such a response is required, the same are denied. Plaintiff also alleges that it is for the Court to determine the interests of the parties and the carriers as to this property and as to each other, the value or extent of the loss, the amount owed by the carriers, if any, for the loss, and to and from whom the sums are due. Further, Plaintiff alleges that Travelers was or became aware of Plaintiff's interest and failed to contact the Plaintiff to advise of this loss, to discuss or coordinate payment, or to try to resolve the interests of the parties.
6. Paragraphs 24-30 are denied and strict proof is demanded thereof.
7. In response to Paragraph 31, the Plaintiff re-alleges its foregoing allegations and those of its Amended Complaint and incorporates the same herein by reference.
8. Paragraphs 32-39 are admitted.

9. In response to Paragraph 40, the Plaintiff alleges that pursuant to Court rulings, the relationship of the parties, the contractual agreements of the parties and Defendant McKenzie's obligations, that Defendants Driggers, Driggers and Floyd were and/or should be held to have been, insured by Travelers policy.

10. Paragraph 41 is admitted.

11. Paragraph 42 is denied. While Defendant Travelers may have made certain calculations as to payment of its coverage, those calculations were made in disregard of the rights of other parties to this action, including the Plaintiff. Ultimately, any "determination" as to coverage and payment should be made by this Court.

12. Plaintiff admits only so much of Paragraphs 43, 44, and 45 as admit the interests or potential interests of Defendants Driggers, Driggers, Floyd and McKenzie, the United States of America and the South Carolina Department of Revenue. However, Plaintiff denies that this is a full or complete listing of the interests or potential interests in Travelers coverage proceeds or other exposure in this matter. In this regard, Plaintiff notes that its own interests are omitted, as are the interests of the parties in the calculation of payment percentages, and the exposure of Travelers in this action beyond the boundaries of its coverage. In particular, the said Paragraphs fail to allege or note its pro rata obligations under South Carolina law and the policies of the carriers, which obligations must be determined by the Court.

13. Paragraph 46 is admitted.

14. Paragraph 47 is denied because the Plaintiff alleges that it is for the Court to determine the coverage and the claims herein.

15. Paragraphs 48 and 49 are denied and Plaintiff alleges that the Court should deny Travelers request for Interpleader in this case based upon the following; (1) the numerous

complex issues of policy construction and the applicability of State Law; (2) the contractual relationships between the parties; (3) the prior rulings of this Court in this and previous litigation between certain of the parties; (4) the obligations of Travelers to the Plaintiff; (5) the other claims pending against Travelers including those for bad faith; (6) the need for a Court determination of all factors and calculations, including any relative to payment to McKenzie; (7) The pro rata issues; (8) Travelers being the only company to receive timely notice and an opportunity to investigate this loss; (9) Travelers failure to timely notify Farm Bureau of this loss; and (10) the shifting claims as to ownership and insurable interest based upon recent pleadings by Defendants M. Driggers, S. Driggers and T. Floyd which have altered the landscape of this matter. SCFB is informed and believes that the Court must first determine the amount of the loss, the ownership or insurable or property interests of the individual parties and what coverage is due from each carrier. At that point, SCFB is informed and believes that both SCFB and Travelers' could deposit that portion of their coverage determined to be due into the Court so that it could then be paid to the entitled Defendants in the amounts deemed just and proper by the Court. Therefore, SCFB denies that Traveler's is presently entitled to Interpleader and it objects to the same; however, SCFB believes that both it and Traveler's would possibly be entitled to Interpleader once the Court makes the initial determinations referenced above and SCFB asks that at the proper time, that it also be afforded the right of Interpleader which should not presently be awarded to either carrier.

16. Paragraph 51 is denied and strict proof thereof is demanded. SCFB alleges that its right of Contribution and Travelers lack of such a right arise from a number of factors, including Travelers failure to notify Farm Bureau of this claim after it became aware of Farm Bureau's interests, Travelers failure to honor its obligations to Driggers, Driggers and Floyd, Travelers

attempt to pay a large part of its coverage to McKenzie without considering the rights and obligations of other involved parties, and Travelers failure to initiate and prosecute an action to have the Court determine the rights and obligations of the parties, which compelled Farm Bureau to do so.

FOR A SECOND DEFENSE
(Rule 8 & 12 Defenses)

17. Each of the foregoing allegations is incorporated by reference herein as fully as though repeated verbatim.

18. SCFB specifically asserts and incorporates herein by reference all defenses and affirmative defenses listed, referenced or mentioned in Rules 8 (c) and Rule 12(b) of the South Carolina Rules of Civil Procedure including the defenses of failure to state a cause of action for which relief can be granted pursuant to Rule 12 (b)(6) of the South Carolina Rules of Civil Procedure and SCFB is informed and believes that said Complaint should be dismissed with prejudice.

FOR A THIRD DEFENSE
(Negligence)

19. The foregoing allegations are incorporated herein by reference as fully as though the same were repeated verbatim.

20. SCFB pleads Travelers' negligence as an affirmative defense to this action.

FOR A FOURTH DEFENSE
(Pro Rata Share Not Exceeded)

21. The foregoing allegations are incorporated herein by reference as fully as though the same were repeated verbatim.

22. SCFB alleges that the parties pro rata shares must first be established and that the moving party must have then paid more than its pro rata share in order to have the right of Contribution.

23. SCFB pleads Travelers' failure to pay more than its pro rata share as an affirmative defense to this action.

FOR A FIFTH DEFENSE
(Liability Not Common)

24. The foregoing allegations are incorporated herein by reference as fully as though the same were repeated verbatim.

25. Shaw pleads the lack of commonality of the liability as an affirmative defense to this action.

FOR A SIXTH DEFENSE
(Ripeness)

26. Each of the foregoing allegations is incorporated by reference herein as fully as though the same were repeated verbatim.

27. Travelers claim, if any, which is denied, is not ripe for adjudication.

FOR A SEVENTH DEFENSE
(Unclean Hands)

28. Each of the foregoing allegations is incorporated by reference herein as fully as though the same were repeated verbatim.

29. SCFB pleads “unclean hands” as a complete affirmative defense and bar.

FOR AN EIGHTH DEFENSE
**(Failure to Comply with SC Contribution
Among Tortfeasors Act)**

30. Each of the foregoing allegations is incorporated by reference herein as fully as though the same were repeated verbatim.

31. SCFB pleads Travelers failure to comply with the requirements of §15-38-10, et seq. as a full and affirmative defense.

FOR A NINTH DEFENSE
(Equitable Powers of the Court)

32. Each of the foregoing allegations is incorporated by reference herein as fully as though the same were repeated verbatim.

33. Based upon the facts, pleadings and prior rulings of this Court, the Court should bar Travelers claims pursuant to the Court's equitable powers under §15-38-10, et seq.

FOR A TENTH DEFENSE
(Fault)

34. Each of the foregoing allegations is incorporated by reference herein as fully as though the same were repeated verbatim.

35. Travelers damages, if any, were caused by its own fault and SCFB pleads fault as a full and complete defense.

FOR AN ELEVENTH DEFENSE
(Incorporation of Other Pleadings)

36. SCFB re-alleges and incorporates the foregoing allegations herein by reference, as fully as though the same were repeated verbatim.

37. To the extent the same are not inconsistent herewith, SCFB incorporates herein all pleadings that it filed in Civil Action 03-CP-26-1421, all pleadings that it has or will file in this action, and all defenses and affirmative defenses raised by any party to this case.

FOR A TWELFTH DEFENSE
(Reservation of Right to Amend)

38. SCFB re-alleges and incorporates the foregoing allegations herein by reference, as fully as though the same were repeated verbatim.

39. SCFB reserves the right to amend this pleading and assert all additional defenses, including affirmative defenses, which the discovery process indicates may be applicable to this matter and it reserves the right to assert all such defenses and does not waive any additional or further defenses including affirmative defenses.

s/ J. Dwight Hudson, Esq.
J. Dwight Hudson, Esquire
SC Bar # 2753
Hudson Law Offices
PO Box 70218
Myrtle Beach, SC 29572
(843) 692-9889

Attorney For: Plaintiff

Dated: October 13, 2016

CERTIFICATION OF SERVICE

In addition to this Motion being served via the SC Court's efileing system, this is to certify that the foregoing will be served by HUDSON LAW OFFICES by and through its agents, servants and employees on October 13, 2016 by

- (X) Placing the same in the United States mail, postage prepaid to the addresses noted below;

Mr. Marion L. Driggers
3497 Hebron Road
Lake City, SC 29560

- () Transmitting the same by facsimile to the numbers noted below;
(X) Forwarding the same by e-mail to the addresses noted below:

William P. Davis
Baker Ravenel & Bender, LLP
PO Box 8057
Columbia, SC 29202
Attorney for Traveler's

Daryl J. Corbin Esq.
Attorney at Law
PO Box 447
Florence, SC 29503-0447
Attorney for McKenzie

Tasha Thompson Esq.
SC Department of Revenue
300 A Outlet Pointe Blvd.
PO Box 12265
Columbia, SC 29211
Attorney for SC Dpt of Revenue

George J. Conits Esq.
U.S. Attorney's Office
55 Beattie Place, Ste. 700
Greenville, SC 29601
Email: George.Conits@usdoj.gov
Attorney for The United States of America

Edward K. Pritchard III Esq.
Elizabeth F. Fulton, Esq.
Pritchard Law Group LLC
129 Broad Street
Charleston, SC 29401
Email: epritchard@pritchardlawgroup.com
Liz@PritchardLawGroup.com
Attorney for S Driggers & T. Floyd

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF WILLIAMSBURG	)	C/A NO.: 2014-CP-45-00132
	)	
South Carolina Farm Bureau Ins. Co.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANT THE TRAVELERS HOME
	)	AND MARINE INSURANCE
Marion L. Driggers, Shiralee Driggers,	)	COMPANY'S MOTION FOR
Tammy D. Floyd, Arthur McKenzie, a/k/a	)	SUMMARY JUDGMENT AS TO THE
Auther McKenzie, The Travelers Home	)	CROSS-CLAIM OF MARION L.
and Marine Insurance Company,	)	DRIGGERS
The United States of America acting by	)	
and through its agency, The Internal	)	
Revenue Service and The South Carolina	)	
Tax Commission	)	
	)	
Defendant.	)	

TO: MARION L. DRIGGERS, DEFENDANT:

Pursuant to Rule 56, SCRPC, Counter-Defendant, The Travelers Home and Marine Insurance Company ("Travelers") hereby moves for an order granting it summary judgment as to the cross-claims of Marion L. Driggers on the grounds that there is no genuine issue as to any material fact and Travelers is entitled to judgment as a matter of law in that (1) cross-claimant is a stranger to the insurance contract at issue between Travelers and Arthur McKenzie and has no rights under said contract; (2) cross-claimant lacks standing to assert any cross-claims against Travelers; (3) even if cross-claimant has the right to assert any cross-claims against Travelers and the standing to do so (which is denied), said cross-claims would be barred by the statute of limitations and the doctrines of laches and waiver, or any of them.

s/William P. Davis
William P. Davis
S.C. Bar No.: 1585
Mariel D. Norton
S.C. Bar No.: 100198
BAKER, RAVENEL & BENDER, LLP
Post Office Box 8057 (29202)
3710 Landmark Drive, Suite 400
Columbia, SC 29204
Telephone: (803) 799-9091; Fax: (803) 779-3423
wdavis@brblegal.com; mnorton@brblegal.com
Our File: 7746.1749
*Attorneys for Cross-Defendant The Travelers Home
and Marine Insurance Company*

April 11, 2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF WILLIAMSBURG	)	C/A NO.: 2014-CP-45-00132
	)	
South Carolina Farm Bureau Ins. Co.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANT THE TRAVELERS HOME
	)	AND MARINE INSURANCE
Marion L. Driggers, Shiralee Driggers,	)	COMPANY'S MOTION FOR
Tammy D. Floyd, Arthur McKenzie, a/k/a	)	SUMMARY JUDGMENT AS TO THE
Auther McKenzie, The Travelers Home	)	THIRD CAUSE OF ACTION FOR
and Marine Insurance Company,	)	EQUITABLE INDEMNITY OF
The United States of America acting by	)	PLAINTIFF
and through its agency, The Internal	)	
Revenue Service and The South Carolina	)	
Tax Commission	)	
	)	
Defendant.	)	

TO: J. DWIGHT HUDSON, ESQUIRE, ATTORNEY FOR PLAINTIFF SOUTH CAROLINA FARM BUREAU INS. CO.:

Pursuant to Rule 56, SCRCP, Defendant, The Travelers Home and Marine Insurance Company ("Travelers") hereby moves for an order granting it summary judgment as to the third cause of action for equitable indemnity of Plaintiff on the grounds that there is no genuine issue as to any material fact and Travelers is entitled to judgment as a matter of law in that (1) there is no special relationship between Travelers and Plaintiff; and (2) Plaintiff is at least partly at fault for any damages allegedly sustained by its own insureds, Defendants Marion L. Driggers, Shiralee Driggers, and/or Tammy D. Floyd.

s/William P. Davis
William P. Davis
S.C. Bar No.: 1585
Mariel D. Norton
S.C. Bar No.: 100198
BAKER, RAVENEL & BENDER, LLP
Post Office Box 8057 (29202)
3710 Landmark Drive, Suite 400
Columbia, SC 29204
Telephone: (803) 799-9091; Fax: (803) 779-3423
wdavis@brblegal.com; mnorton@brblegal.com
Our File: 7746.1749
*Attorneys for Cross-Defendant The Travelers Home
and Marine Insurance Company*

April 11, 2019

[illegible]

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT
Case No: 2014-CP-45- 132

South Carolina Farm Bureau Mutual)
Insurance Company,)

Plaintiff,)

VS.)

**NOTICE OF MOTION & MOTION
FOR SUMMARY JUDGMENT**

Marion L. Driggers, Shiralee Driggers,)
 Tammy D. Floyd, Arthur McKenzie, a/k/a)
 Auther McKenzie, The Travelers Home)
 and Marine Insurance Company, The)
 United States of America acting by and)
 through its agency, The Internal Revenue)
 Service and The South Carolina Tax)
 Commission.)

Defendants.)

TO: THE PARTIES AND COUNSEL OF RECORD:

YOU WILL PLEASE TAKE NOTICE that the undersigned attorney for the defendant moves the Court pursuant to the *South Carolina Rules of Civil Procedure*, including Rules 26 and 30 thereof, for an Order granting the Plaintiff Summary Judgment as to all issues and claims pending in this case, particularly including all counterclaims. The grounds for this Motion are the interests of justice and that there are no genuine issues as to any material fact and the moving party is entitled to judgment as a matter of law.

This Motion is based upon the record in this cause, upon the attached and incorporated Memorandum, and upon South Carolina law, common law, statutes and rules.

I SO MOVE:

s/ J. Dwight Hudson, Esq.
J. Dwight Hudson, Esquire
SC Bar # 2753
Hudson Law Offices
PO Box 70218
Myrtle Beach, SC 29572
(843) 692-9889

Attorney For: Plaintiff

Dated: July 6, 2020

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG) IN THE COURT OF COMMON PLEAS
 THIRD JUDICIAL CIRCUIT
Case No: 2014-CP-45- 132

South Carolina Farm Bureau Mutual)
Insurance Company,)

Plaintiff,)

VS.)

Marion L. Driggers, Shiralee Driggers,
Tammy D. Floyd, Arthur McKenzie, a/k/a
Auther McKenzie, The Travelers Home
and Marine Insurance Company, The
United States of America acting by and
through its agency, The Internal Revenue
Service and The South Carolina Tax
Commission,

Defendants.)

Memorandum Opposing Or Responding To Motions By Travelers & Marion L. Driggers

STATEMENT OF THE FACTS:

The Plaintiff incorporates by reference the Facts alleged in its Memorandum Supporting Motions To Quash Or For Protective Order. Plaintiff also notes that McKenzie acquired his interest in the subject party by an assignment of the Contract for Sale and Purchase from Elissa Richardson. M. Driggers disputes the validity of the assignment and disputes that McKenzie had any valid interest in the subject property. Travelers asserts that, at a minimum, McKenzie had an equitable interest in the property.

Farm Bureau notes that Driggers, Floyd, McKenzie and Travelers were all aware of their mutual interests and involvement with the property prior to the fire. All were promptly advised of the fire and McKenzie made a claim for his policy with Travelers. Only Farm Bureau was misled

as to the ownership and interests in the property and only Farm Bureau was not promptly advised of the fire. The present tangled web was created entirely by the Defendants.

STATEMENT OF THE CASE:

Farm Bureau's Motion(s) To Quash and For Protective Order were previously heard by Judge James. He also heard issues about what parts of Farm Bureau's Claims file were privileged. Judge James ruled on the claims file disclosure issues, and Farm Bureau produced the parts of its file that Judge James ordered be disclosed. Judge James had the Motion(s) to Quash and For Protective Order under advisement when he ascended to the Supreme Court bench. This Court has kindly agreed to consider and rule on the remaining motions.

In addition to that Motion, Travelers asks that the Court consider and rule on its Motion(s) For Summary Judgment and To Allow Funds To Be Deposited Into Court. The Court previously heard most of Mr. Driggers' Motions. He has moved to Reconsider and has forwarded to the Court various motions, including the following: To Dismiss, To Reconsider, To Revise Cause of Action, To Hear Motions In Open Court With Court Reporter, and To Compel.

ISSUES:

1. Should the Court grant Summary Judgment to the carriers or allow Travelers Interpleader?

2. Should the Court dismiss claims against M. Driggers or Reconsider prior rulings?

ARGUMENT:

Travelers - Insurable Interest, Standing, Bad Faith and Summary Judgment

Travelers has pending Motions for Summary Judgment and Driggers has opposing Motions to Dismiss, all relative to the bad faith claims. Farm Bureau has not yet moved for Summary Judgment but takes the position that if Summary Judgment is granted to Travelers, stronger

grounds exist for Summary Judgment to Farm Bureau and therefore, Farm Bureau moves here for Summary Judgment or, moves that the Court grant the same *sua sponte*, based on this Memo and its incorporated Memorandum Supporting Motions to Quash And For Protective Order.

Farm Bureau had not previously moved for Summary Judgment because depositions have not yet been taken or completed to explore any factual issues. The late Arthur McKenzie and Wayne McKenzie were deposed. The depositions of Marion Driggers, Shirley Driggers and Tammy Floyd were scheduled, but Marion Driggers did not appear, and the others were not held or completed. Prior to this litigation, Farm Bureau did take and has the Examinations Under Oath of Marion and Shirley Driggers and would be glad to submit or make the same available to the Court. Farm Bureau has not yet done so because the depositions of Marion and Shirley Driggers have not yet been completed and the EUOs would be introduced as an exhibit to those depositions. The depositions of Travelers and Farm Bureau have not yet been taken. As to Farm Bureau, depositions have not been taken from employees pending a final ruling from the court on the Motions to Quash and For Protective Order because other parties seek production of privileged and protected claims and underwriting manuals and personnel files.

Summary Judgment should be granted if there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Rule 56, SCRCF*. Travelers argues that the Driggers parties lack standing as they are not covered by the McKenzie policy. Similarly, neither Floyd, who holds legal title to the property, nor McKenzie, who has an ownership interest to the property, are parties to the Farm Bureau policy. Under the current pleadings, S. Driggers and Floyd allege that only Floyd owned the property. If that is the case, then S. and M. Driggers have no insurable interest and Floyd is not a party to the Farm Bureau Contract so she lacks standing. Also, as to Farm Bureau's claim against Travelers for apportionment of coverage, the

existence of the Contract For Sale and Purchase is relevant as it required McKenzie to insure the property. The Statute for apportionment also gives Farm Bureau standing. §38-75-20, *SC Code Ann.*

As Travelers also notes, to establish standing, "[f]irst, the plaintiff must have suffered an 'injury in fact'—an invasion of a legally protected interest [that] is (a) concrete and particularized, and (b) 'actual or imminent, not conjectural or hypothetical'[] [s]econd, there must be a causal connection between the injury and the conduct complained of—the injury has to be 'fairly . . . trace[able] to the challenged action of the defendant, and not . . . th[e] result [of] the independent action of some third party not before the court[]' [t]hird, it must be 'likely,' as opposed to merely 'speculative,' that the injury will be 'redressed by a favorable decision'" (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992))); *Sea Pines Ass'n for the Prot. of Wildlife, Inc. v. S.C. Dep't of Nat. Res.*, 345 S.C. 594, 601, 550 S.E.2d 287, 291 (2001) ("The party seeking to establish standing carries the burden of demonstrating each of the three elements.")

An insurance policy is a personal contract between the insurance company and the insured. The insurance carrier's obligations are to the insured, and don't pass with the property "unless assigned with the consent of the insurer, or unless by extraordinary or special and express stipulation of the parties it is made to run with the subject matter"; *Haynes v. Auto-Owners Ins. Co.*, Civil Action No. 8:12-00470-TMC (D.S.C. Aug. 6, 2013).

The subject property was owned by Tammy Floyd, a fact that was not disclosed to Farm Bureau until after this loss. Ms. Floyd had no contract with Farm Bureau. Mr. Driggers was the named insured and he was married to Shirley Driggers. Neither Mr. or Mrs. Driggers owned the subject property. Neither Floyd, M. Driggers or S. Driggers have standing to allege claims against Farm Bureau.

SC has equated insurable interest with equity in the land, and in this case, Ms. Floyd, as the owner of the property, would have the equity interest that had not already passed to McKenzie under the contract to purchase. *Belton v. Cincinnati Ins. Co.*, 360 S.C. 575 (S.C. 2004) Even if Marion or Shirley Driggers claims an insurable interest in the land by way of a trust, it could only be from a resulting trust based on their having paid for the land when it was purchased and deeded to Floyd. In SC, that would be a resulting trust. In this case as in *Haynes*, the Farm Bureau policy includes the interest of a trustee by including it within the term “mortgagee.” Then, the policy provides that if a mortgagee **is named in the policy**, then property losses will be paid **as interests appear**. **See: Exhibit, Declarations Page and Certified SC Farm Bureau Policy.** Tammy Floyd owned the property and she was not an insured. Marion Driggers was the named insured and Shirley Driggers is his spouse. Neither is named, listed or identified in the Farm Bureau Policy as a mortgagee or trustee. Tammy Floyd did not have privity of contract with Farm Bureau and no trustee interest of Marion or Shirley Driggers is named in the policy. Therefore, none of them have rights under the policy as to the subject property and none can bring an action for breach of contract or bad faith. *Haynes v. Auto-Owners Ins. Co., Civil Action No. 8:12-00470-TMC (D.S.C. Aug. 6, 2013)*

As to those claims against Farm Bureau by the Driggers/Floyd parties, to any extent that Travelers is entitled to Summary Judgment as a matter of law, Farm Bureau has stronger grounds for Summary Judgment. In response to Travelers motions here, Farm Bureau has also filed a Motion for Summary Judgment. **See: Exhibit, Summary Judgment Motion.** SC law provides that an insurer acts in bad faith when there is no reasonable basis to support the insurer’s decision, but if there are reasonable grounds to contest a claim, then there is no bad faith. *Helena Chemical*

v. Allianz Underwriters, 357 S.C. 631 (S.C. 2004) “Bad faith is a knowing failure on the part of the insurer to exercise an honest and informed judgment in processing a claim. 16A *Appleman, Insurance Law and Practice Compensatory and Punitive Damages* § 8878.25 (1981). Under South Carolina law, an insurer acts in bad faith where there is no reasonable basis to support the insurer's decision. *Cock-n-Bull Steak House, Inc.*, 321 S.C. 1, 466 S.E.2d 727; *Dowling v. Home Buyers Warranty Corp.*, 303 S.C. 295, 400 S.E.2d 143 (1991).” *American Fire and Cas. Co. v. Johnson*, 332 S.C. 307 (S.C. Ct. App. 1998)

The elements of a claim for bad faith or breach of the covenant of good faith and fair dealing are as follows: (1) the existence of a mutually binding contract of insurance between plaintiff and defendant; (2) a refusal by an insurer to pay benefits due under the contract; (3) resulting from the insurer's bad faith or unreasonable action in breach of an implied covenant of good faith and fair dealing in the contract; (4) that causes damage to the insured. *Pitts v. Jackson National Life Insurance Co.*, 352 S.C. 319 (S.C. Ct. App. 2002) Travelers contends that it is entitled to Summary Judgment because there was no contract between Travelers and Driggers/Floyd. As described above, there was no *enforceable* contract between Marion and Shirley Driggers and Farm Bureau and there was no contract at all between owner Floyd and Farm Bureau.

Farm Bureau has filed this action rather than denying the claim, but, as a matter of law and equity, the company's insured breached the contract and acted in bad faith. “[T]he duty of good faith and fair dealing is considered to be mutual duty of the insured and the insurer and generally applies to the conduct of the parties in the context of the insurance contract.” *Pitts v. Jackson National Life Insurance Co.*, 352 S.C. 319, 341 (S.C. Ct. App. 2002); quoting 14 *Lee R. Russ Thomas F. Segalla, Couch on Insurance* § 198:16, at 198-29 (3d ed. 1999) Mr. and Mrs. Driggers breached the contract and failed to deal fairly and in good faith with Farm Bureau by: (1) Failing

to disclose that he did not own the property; (2) Failing to advise of the purchase contract or of McKenzie's ownership interest and duty to insure the property; (3) Failing to promptly notify Farm Bureau of the fire and prejudicing the company's ability to investigate the cause, origin, circumstances and consequences of the fire; (4) Providing, at best, oral notice of the fire to a Farm Bureau agent some days or weeks after the fire, and advising that he did not want to file a claim; (5) Claiming this alleged conversation in this action as notice, even though he did not, per the policy, file a proof of loss within 60 days after the conversation; (6) Waiting a month shy of three years before filing a claim; (7) Failing to advise Farm Bureau of the Travelers policy and investigation; (8) Using the Farm Bureau policy for the unknown and unrated risk of mortgage insurance; (9) Not listing himself as a trustee within the meaning of the mortgagee provision; and (10) Filing a claim almost three years after a fire loss.

Under the facts of this case, Floyd is not insured by Farm Bureau. She has no privity of contract with nor standing to sue Farm Bureau as to a non-existent contract. Mr. and Mrs. Driggers did not own the property, were not listed as trustees under the mortgagee clause, and therefore have no insurable interest. Even if they do have such an interest, as a matter of law, they breached the terms of the policy and breached their obligation to deal fairly and act in good faith. Farm Bureau acted reasonably and with good faith throughout the matter, and this court should so find.

In reply to Travelers Motion for Summary Judgment as to the crossclaims, Farm Bureau joins in the same, has filed the enclosed Motion for Summary Judgment, and asks that the Court dismiss all claims against Farm Bureau. Once that is done, counsel could brief the pro rata allocation of the policies issues for the Court's ruling. That would leave only the claims between Driggers, McKenzie and the tax authorities for disposition.

Travelers – Interpleader

Travelers has also moved for an Order granting it the right of Interpleader by way of allowing Travelers to pay its coverage into the Court. SCFB believes that the Court must first determine the amount of the loss, the ownership or insurable or property interests of the individual parties and what coverage is due from each carrier. At that point both SCFB and Travelers' could deposit that portion of their coverage determined to be due into the Court so that it could then be paid to the entitled Defendants in the amounts deemed just and proper by the Court. Therefore, SCFB denies that Traveler's is presently entitled to Interpleader and it objects to the same; however, SCFB believes that both it and Traveler's would possibly be entitled to Interpleader once the Court makes the initial determinations referenced above and SCFB asks that at the proper time, that it also be afforded the right of Interpleader which should not presently be awarded to either carrier.

Under the Travelers policy, Defendant Arthur McKenzie was the sole named insured on Homeowners Policy No. 984761288 633 1 for policy period 5/07/09 - 5/07/10 providing, in relevant part, the following coverage:

A:	Dwelling:	\$287,000
B.	Other Structures:	\$ 28,700
C.	Personal Property:	\$200,900
D.	Loss of Use:	\$ 86,100

Under the Farm Bureau policy, Defendant Marion L. Driggers was the named insured on Homeowners Policy No. FI 0401219 for policy period 5/24/09 - 5/24/10 providing, in relevant part, the following coverage:

A:	Dwelling:	\$118,000
B.	Other Structures:	\$ 5,900
D.	Loss of Use:	\$ 11,800

Both policies insured ownership interest in the subject property and claims have been made by the insureds under both policies. However, Farm Bureau did not receive a claim from the

Insured, Marion L. Driggers, until about October 30, 2012, approximately two (2) years and eleven (11) months after the subject fire loss, and about a month prior to the running of the statute of limitations for negligence/tort claims, among others.

§38-75-20, *SC Code. Ann.* provides that if two or more fire insurance policies are written upon the same property, "they are considered to be contributive insurance, and if the aggregate sum of all such insurance exceeds the insurable value of the property, as agreed by the insurer and the insured, each insurer, in the event of a total or partial loss, is liable for the pro rata share of insurance."

Where other insurance also covers a loss, Farm Bureau's Policy provides as follows:

OTHER INSURANCE. If a loss covered by this policy is also covered by other insurance, a service contract or a warranty provision, we will pay only the proportion of the loss that the limit of liability that applies under this policy bears to the total amount of insurance covering the loss.

Conditions (A)(7), p. 25.

As to insurable interest and limit of liability, Farm Bureau's Policy provides as follows:

- 1. Insurable Interest and Limit of Liability.** Even if more than one person has an insurable interest in the property covered, we will not be liable in any one loss:
 - a. to the insured for more than the amount of the insured's interest at the time of the loss; or
 - b. for more than the applicable limit of liability.

Conditions (A)(1), p. 21.

The Plaintiff is informed and believes that the aggregate sum of insurance from the Travelers and Farm Bureau policies exceed the insurable value of the property within the meaning of §38-75-20, *SC Code. Ann.* and that per the said statute, ***Farm Bureau should not be liable for more than its pro rata share of the insurance.***

Farm Bureau believes that before allowing interpleader, this Court must consider the interests of the parties, the provisions of the policies, §38-75-20, *SC Code. Ann.*, and the terms of

the contracts and agreements between the parties. Therefore, Farm Bureau believes that the Court should deny Travelers motion to pay its coverage into the Court, pending the Court's determination of the other relevant issues.

Driggers Motions

We do not believe that Mr. Driggers has filed a Memorandum, but he forwarded several motions to the court as part of the present filings and we believe that all have been heard and denied or should be denied. These include Motions: (A) For Reconsideration (2), (B) To Compel (3), (C) To Revise Causes Of Action, (D) To Hear Motions In Open Court With Court Reporter, (E) Not Captioned, seeking clerk's notes, and (F) Motion To Produce Legal Assignment.

A Motion For Reconsideration should asked the Court to reconsider matters properly included in a decision on the merits. *Arnold v. State*, 309 S.C. 157 (S.C. 1992) As former Chief Justice Toal stated, in a Motion For Reconsideration the losing party should convince the Court that it ruled "wrongly." *Jean Hoefer Toal, et al., Appellate Practice in South Carolina* 55-60 (2002) A Motion To Reconsider serves two possible purposes: (1) A party believes that the Court misunderstood, failed to fully consider, or failed to rule on an issue or (2) A party must file the motion if he believes an issue was raised but not ruled on and the party wishes to preserve the issue for appellate review. *Elam v. South Carolina Department of Transportation*, 361 S.C. 9 (S.C. 2004)

Farm Bureau submits that none of the Motions submitted demonstrates any misunderstanding or failure to consider by the Court and none relates to an issue properly encompassed by the merits that was raised and not ruled upon. Therefore, the Motions for Reconsideration should be denied. As to the Motions to Compel, Farm Bureau's submitted Memorandum Supporting Its Motions to Quash and For Protective Order speak to those issues

fully. Rather than repeating all of those lengthy arguments, Farm Bureau incorporates the subject memorandum herein by reference. Mr. Driggers seeks to compel depositions, and Farm Bureau agrees that depositions should be held. Its employees will appear once the production and discovery issues are determined. Farm Bureau would also like Mr. Driggers to appear for deposition, along with his wife and daughter and is unaware of any issues that have prevented or impeded those depositions from going forward. If Mr. Driggers will give a range of dates when he is available for deposition, Farm Bureau will promptly notice and set the deposition.

The gravamen of Mr. Driggers' motions, including the one to amend or revise his cause of action, appears to relate to his misunderstanding that insurance contracts or policies are mutual agreements. He seems to believe that Farm Bureau has acted improperly or in bad faith because he was the named insured on a fire policy and wasn't immediately paid after he filed a claim. His position and arguments here misapprehend or fail to consider that both he and Farm Bureau had rights and obligations under the insurance contract. Farm Bureau believes that Mr. Driggers' actions and failures to act breached the insurance contract, materially prejudiced Farm Bureau's rights, and constituted bad faith.

The Motions submitted by Mr. Driggers should be denied.

CONCLUSION:

Travelers Memorandum supports its Motion for Summary Judgment as to the Cross-Claims, indicating that it believes that under its policy and these facts, that it is entitled to Summary Judgment as a matter of law. In response, as part of this Memorandum, Farm Bureau has also moved for Summary Judgment. Farm Bureau is the only party to this action that lacked timely knowledge of and an opportunity to investigate the subject fire loss.

Farm Bureau believes that the other motions should be denied. If payment is to be made under one or both policies, coverage, valuation and pro rata issues remain to be determined, preventing the granting of interpleader to Travelers. Mr. Driggers' motions have either been heard, will depend on the court's ruling as to Farm Bureau's Motion to Quash or For Protective Order – or misapprehend his failure to abide by the conditions of the policy.

Respectfully submitted,

s/ J. Dwight Hudson, Esq.
J. Dwight Hudson, Esquire
SC Bar # 2753
Hudson Law Offices
PO Box 70218
Myrtle Beach, SC 29572
(843) 692-9889

Attorney For: Plaintiff

Dated: July 6, 2018



DWELLING FIRE POLICY DECLARATIONS
SOUTH CAROLINA FARM BUREAU MUTUAL INSURANCE COMPANY
PO BOX 2124, WEST COLUMBIA, SC 29171-2124

Policy Form: **DF3 (12/2002)**
CO-INSURANCE APPLIES.

Policy Number: **FI 0401219**

Dec No.: **15.000**

The Declarations of the policy indicated herein are subject to all other terms and conditions of the policy and replace all previously issued declarations, if any. This Declaration Page becomes a permanent part of your policy. Please attach it to your policy booklet.

THIS DECLARATION PAGE IS EFFECTIVE **05/24/2009** TO **05/24/2010** AT 12:01 A.M. EASTERN STANDARD TIME AND FOR EACH SUCCEEDING POLICY PERIOD OF 12 MONTHS HEREAFTER AS THE RENEWAL PREMIUM IS PAID ON OR BEFORE THE EXPIRATION DATE OF THE CURRENT TERM AND ACCEPTED BY THE COMPANY.

Named Insured and Address

MARION L DRIGGERS
3497 HEBRON RD
LAKE CITY, SC 29560-7695

Agent Information

WAYNE MCKENZIE
FLORENCE (843) 669-3173
102 EAST REDBUD LN FLORENCE, SC 29505-5025

Policy Premium

\$936.81

Premium Paid By

INSURED

Insurance for each covered item is provided for risks against direct physical loss.
Please refer to your policy booklet for all definitions, coverages, perils insured against, exclusions, and policy conditions.

Schedule of Covered Items	Limit Of Liability	SC Valuation Clause	Item Deductible	Premium
POLICY ENDORSEMENT PREMIUM				\$0.00
POLICY ENDORSEMENT EN0900 AMENDATORY ENDORSEMENT				
ITEM 1: RESIDENCE PREMISES INCLUDES THE AREA WITHIN 250 FEET OF THE MASONRY TENANT OCCUPIED DWELLING LOCATED AT 3328 TURBEVILLE HWY LAKE CITY, SC 29560 8949				
ITEM 1 IS SUBJECT TO THE FOLLOWING PREMIUM ADJUSTMENTS: NONE				
ITEM 1 COVERAGES: A - DWELLING PROTECTION: B - OTHER STRUCTURES PROTECTION: D - LOSS OF USE PROTECTION: ITEM 1 IS SUBJECT TO THE FOLLOWING ENDORSEMENTS: DF0089 - LANDLORD'S LIABILITY DF0216 - PREMISES ALARM OR FIRE PROTECTION SYSTEM EN0312 - WIND OR HAIL DEDUCTIBLE CLAUSE IMPORTANT NOTICE THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR NAMED STORM OR WIND/HAIL LOSSES, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU. THE ENCLOSED EXAMPLE ILLUSTRATES HOW THE DEDUCTIBLE MIGHT AFFECT YOU. EN9207 - INFLATION PROTECTION	\$118,000 \$5,900 \$11,800	\$118,000	\$1,000	\$348.00
MORTGAGEE CITIZENS BANK PO BOX 446 TURBEVILLE SC, 29162-0446 LOAN NUMBER :				
ITEM 2: RESIDENCE PREMISES INCLUDES THE AREA WITHIN 250 FEET OF THE MASONRY TENANT OCCUPIED DWELLING LOCATED AT 229 THOMAS ST OLANTA, SC 29114 9318				
** ITEM 2 CONTINUED ON NEXT PAGE **				

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BCH

04/09/2009

Date Prepared

Wayne McKenzie
Authorized Representative

F065A (04/99)

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ELECTRONICALLY FILED - 2020 Jul 06 3:36 PM - WILLIAMSBURG - COMMON PLEAS - CASE# 2014CP4500132

South Carolina Farm Bureau Mutual Insurance Company or

Southern Farm Bureau Casualty or

Palmetto Casualty Insurance Company

Dwelling Fire Policy

Form DF3

Your policy consists of this booklet and the appropriate Declarations, forms and endorsements. Coverages apply only when properly shown on the Declarations page.



Visit our website at www.scfbins.com

Post Office Box 2124
West Columbia, SC
29171

724 Knox Abbott Drive
Cayce, SC 29033
(803) 796-6700

Policy conditions require immediate notice of any accident or claim.

**To report an accident or claim, call us toll-free,
at 1-800-799-7500**

Form DF3

REVISED 12/2002

I hereby certify this is a true and accurate copy
of the policy issued to the above named
insured(s) for the period of time indicated by the
above stated dates.

Rick Lamar

Rick Lamar, CPCU, District Claims Manager

YOUR DWELLING FIRE POLICY QUICK REFERENCE

DECLARATIONS PAGE

Your Policy Period

Your Name and Address

Your Dwelling

Endorsements

Coverages and Amounts of Insurance

Mortgagee Identification

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COUNTY MEMBERSHIP PROVISIONS

1. As a prerequisite to **your** purchase of this policy and any renewal of this insurance, **you** must make application to be a member of and maintain your membership in the applicable county Farm Bureau agricultural organization and affiliated state Farm Bureau agricultural organization (hereinafter collectively known as "Farm Bureau Federation").
2. **Your** failure to apply for membership and to maintain **your** membership with the applicable Farm Bureau Federation as **our** sponsoring organization, including but not limited to **your** failure to pay the required membership dues to the Farm Bureau Federation, shall require **us** to cancel or nonrenew your policy.
3. Dues payable to the Farm Bureau Federation are in consideration of membership in the Farm Bureau Federation and other agriculture-related services from Farm Bureau Federation and:
 - a. are not in consideration of coverage under this policy; and
 - b. are not payable to South Carolina Farm Bureau Mutual Insurance Company, Southern Farm Bureau Casualty Insurance Company, or any other insurer named on the Declarations.

AGREEMENT

Relying on the facts **you** have given **us**, **we** will provide the insurance described in this policy for the limits shown in the latest Declarations in return for the premium and **your** compliance with all applicable provisions of this policy. This policy is not complete without the Declarations.

DEFINITIONS

Certain words and phrases in this policy have specific meanings.

1. In this policy, **you** and **your** refer to the **named insured** shown in the Declarations and the spouse if a resident of the same household.
2. **We, us** and **our** refer to the Company providing this insurance.
3. **Insured** means **you** and residents of **your** household who are:
 - a. **your** relatives, or
 - b. other persons under the age of 21 and in the care of any person named above.

4. **Actual cash value** means the cost to replace new today with materials of like kind and quality, less physical depreciation and economic obsolescence.
5. **Business** means a full-time, part-time or occasional trade, profession or occupation, whether permanent or temporary, including farming.
6. **Electronic Data** means information facts or programs stored as, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, servers, cells, data processing devices, or any other media which are used with electronically controlled equipment.
7. **Fungi** means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or byproducts produced or released by any fungus, but does not include any fungus that is, is on, or is contained in, any goods or products intended for consumption.
8. **Occurrence** means an accident, but does not include exposure to conditions, which results during the policy period in:
 - a. bodily injury; or
 - b. property damage.
9. **Pollutants** means any solid, liquid, gaseous or thermal irritant, contaminant, or fuel including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes but is not limited to materials to be recycled, reconditioned or reclaimed.
10. **Recreational vehicle** means a 2-, 3- up to 8-wheeled or tracked land or amphibious vehicle that is unlicensed and not subject to motor vehicle registration, powered by a petroleum fuel engine or electric motor, used off public roads or highways for personal pleasure or recreation.
11. **Residence employee** means an employee of an **insured**, or an employee leased to an **insured** by an agreement with a labor leasing firm, who performs duties, including household or domestic services, in connection with the maintenance or use of the **residence premises**. This includes employees who perform similar duties elsewhere for **you**. This does not include employees while performing duties in connection with the **business** of an **insured**.
12. **Residence premises** means the dwelling, other structures, and grounds which are shown in the Declarations and not used for **business**.
13. **Terrorism** means activities against persons, organizations or property of any nature:

- a. that involve the following or preparation for any of the following:
 - (1) use or threat of force or violence;
 - (2) commission or threat of a dangerous act; or
 - (3) commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
- b. when one or both of the following applies:
 - (1) the effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
 - (2) it appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social, or economic objectives or to express (or express opposition to) a philosophy or ideology.

COVERAGES

This insurance applies to the **residence premises**, coverages for which a Limit of Liability is shown, and Perils Insured Against for which a Peril Group is shown in the Declarations.

COVERAGE A - DWELLING PROTECTION

We cover:

1. the dwelling on the **residence premises** shown in the Declarations, used principally as a private residence, including structures attached to the dwelling;
2. attached structures, steps, equipment and accessories which form a permanent part of the dwelling. This includes, but is not limited to: floor coverings, appliances, counters, and cabinets. But **we** do not cover satellite dish antenna systems or related equipment;
3. oil and gas drums or tanks, connected to the dwelling which furnish heating or cooking fuel;
4. materials and supplies located on or next to the **residence premises** used to construct, alter or repair the dwelling or other structures on the **residence premises**; and
5. decks and porches forming living or recreation space for the dwelling.

This coverage does not apply to land, and will not cover costs to replace, rebuild, stabilize or otherwise restore the land necessary to support the dwelling covered. Nor does this coverage apply to any water whatsoever.

COVERAGE B - OTHER STRUCTURES PROTECTION

We cover other structures on the **residence premises** separated from the dwelling by clear space:

1. structures connected to the dwelling by only a fence, utility line or similar connection are considered to be other structures; and
2. outdoor equipment used to service the **residence premises**.

This coverage does not apply to land, and will not cover costs to replace, rebuild, stabilize or otherwise restore the land necessary to support the other structures covered. Nor does this coverage apply to any water whatsoever.

We do not cover:

1. other structures used in whole or in part for **business**, including storage of any **business** property.
2. barns, outbuildings, or sheds used in whole or in part as farm barns, farm outbuildings, or farm sheds;
3. other structures rented or held for rental to any person not a tenant of the dwelling, unless used solely as a private garage; or
4. satellite dish antenna systems or related equipment for more than \$500, unless separately insured and a premium paid for the coverage.

COVERAGE C - PERSONAL PROPERTY PROTECTION

We cover personal property only when this coverage and a Limit of Liability are shown in the Declarations. This personal property must be usual or incidental to the occupancy of the **residence premises** as a dwelling and owned or used by an **Insured** while it is at the **residence premises**. At **your** request, **we** will cover personal property owned by:

1. others while the property is on the part of the **residence premises** occupied by an **insured**; and
2. a guest or a **residence employee**, while the property is in any residence occupied by an **insured**.

Our limit of liability for personal property away from the **residence premises** is

10% of the limit of liability for Coverage C, or \$1,000, whichever is greater. Personal property in a newly acquired principal residence is not subject to this limitation for the 30 days from the time **you** begin to move the property there.

We do not cover:

1. articles separately described and specifically insured in this or other insurance, or specifically excluded elsewhere in this insurance policy;
2. accounts, bills, bullions, currency, deeds, evidences of debt, manuscripts, money or securities;
3. animals, birds or fish;
4. aircraft, hovercraft and parts for aircraft or hovercraft. Aircraft means any contrivance used or designed for flight, except model or hobby aircraft not used to carry people or cargo. Hovercraft means a self-propelled motorized ground effect vehicle, and includes, but is not limited to, hovercraft and air cushion vehicles.
5. watercraft, other than rowboats and canoes for more than \$500, unless separately insured and a premium paid for the coverage;
6. credit cards or fund transfer cards;
7. land. **We** will not cover costs to replace, rebuild, stabilize or otherwise restore the land necessary to support the buildings covered. Nor do **we** cover any water whatsoever.
8. motor vehicles, **recreational vehicles** and any other motorized land conveyances unless separately insured and a premium paid for the coverage. This includes:
 - a. all-terrain, four-wheeler type vehicles, designed for recreational use;
 - b. equipment and accessories; or
 - c. any device or instrument for the transmitting, recording, receiving or reproduction of sound, signals, or pictures which is operated by power from the electrical system of motor vehicles or any other motorized land conveyances, including:
 - (1) accessories or antennas;
 - (2) tapes, wires, records, discs or other media for use with any such device or instrument; or
 - (3) radar detection devices;

while in or upon the vehicle or land conveyance.

We do cover vehicles or conveyances not subject to motor vehicle registration which are:

- a. lawn and garden tractors with a 30 horsepower rating or less, but not **recreational vehicles**; or
 - b. designed or used for assisting the handicapped;
- 9. property of roomers, boarders and other tenants, except property of roomers and boarders related to an **insured**;
 - 10. property rented or held for rental to others off the **residence premises**; nor
 - 11. satellite dish antenna systems or related equipment.

COVERAGE D - LOSS OF USE PROTECTION

The limit of liability for Coverage D is the total limit for all coverages below.

- 1. **Fair Rental Value.** If a loss to **your** property described in Coverage A caused by a Peril Insured Against under this policy makes that part of the **residence premises** rented to others or held for rental by **you** uninhabitable, **we** cover the fair rental value of that part of the **residence premises** rented to others or held for rental by **you**, less any expenses that do not continue while the premises are uninhabitable. Payment will be for the shortest time required to repair or replace that part of the premises rented or held for rental. But in any event, that time will not exceed 180 consecutive days from the date of loss. **We** will pay only 1/6 of the limit of liability for each month the rented part of the Covered Item at the described location is unfit for its normal use. Payment under this coverage does not reduce the Coverage A limit of liability by the amount paid.
- 2. **Additional Living Expenses.** **We** cover additional living expenses if a loss to **your** property described in Coverage A or C caused by a Peril Insured Against under this policy makes that part of the **residence premises** where **you** reside uninhabitable. **We** cover the necessary increase in living expenses incurred by **you** so that **your** household can maintain its normal standard of living. Payment will be for the shortest time required to repair or replace the damage, or if **you** permanently relocate, the shortest time required for **your** household to settle elsewhere. But in any event, that time will not exceed 180 consecutive days from the date of loss.
- 3. **Prohibited Use.** If a civil authority prohibits **you** from using the **residence premises** as a result of direct damage to neighboring premises by a Peril

Insured Against in this policy, **we** cover the Additional Living Expense or Fair Rental Value loss as provided under 1 and 2 above for no more than a total of fourteen days.

The periods of time under 1, 2, and 3 above are not limited by expiration of this policy.

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

ADDITIONAL COVERAGES

Unless specifically stated otherwise, the Loss Deductible Clause applies.

1. **Arson Award.** At **our** option, **we** will pay up to \$5,000 for information which leads to an arson, vandalism, or malicious mischief conviction in connection with a loss covered by this policy. Regardless of the number of persons providing information, **our** limit shall not be increased. This coverage is additional insurance. No deductible applies to this Additional Coverage.
2. **Collapse.**
 - a. For this Additional Coverage:
 - (1) Collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its current intended purpose.
 - (2) A building or any part of a building that is in danger of falling down or caving in is not considered to be in a state of collapse.
 - (3) A part of a building that is standing is not considered to be in a state of collapse even if it has separated from another part of the building.
 - (4) A building or any part of a building that is standing is not considered to be in a state of collapse even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
 - b. **We** insure for direct physical loss to covered property involving collapse of a building or any part of a building if the collapse was caused by one or more of the following:
 - (1) Perils Insured Against in Coverage C – Personal Property, in this policy. These perils apply to covered buildings and personal property for loss insured by this additional coverage;

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

Loss to an awning, driveway, fence, patio, deck, pavement, swimming pool, underground pipe, flue, drain, cesspool, septic tank, foundation, retaining wall, bulkhead, pier, wharf or dock is not included under items (2), (3), (4), (5) and (6) unless the loss is a direct result of collapse of a building or any part of a building.

Collapse does not include settling, cracking, shrinking, bulging or expansion.

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

- 3. **Damage from Fungi.** If water causes covered damage, then **we** will pay up to 2% of the Coverage A item limit of liability for all incurred costs applicable to Coverages A, C, and D only for direct physical loss to covered property caused by, resulting from, contributed to, or aggravated by **fungi**.

This 2% limit applies per **occurrence** for item coverages (A, C, and D only) combined and not separately for each coverage. For all incurred damages and for all **occurrences** during a policy period, **we** will not pay more than 3% of the limit for Coverage A for that item. Our limit includes all costs associated, or alleged to be associated, with "Damage from **Fungi**," including but not limited to, surveys, tests, remediation, and repairs.

No Damage from **Fungi** coverage applies to any **Other Structures** (Coverage B). This Additional Coverage does not increase the limit of liability applying to any coverage.

- 4. **Debris Removal.** **We** will pay **your** reasonable expense for the removal of:
 - a. debris of covered property if a Peril Insured Against causes the loss to that property; or

- d. to the system or appliance from which the water or steam escaped;
 - e. caused by or resulting from freezing except as provided in the peril of Freezing below; nor
 - f. on the **residence premises** caused by accidental discharge or overflow which occurs off the **residence premises**;
 - g. caused by overflow or backup of water in any form in gutters.
11. **Sudden and accidental tearing apart, cracking, burning or bulging** of steam or hot water heating system, an air conditioning or automatic fire protective sprinkler system, or an appliance for heating water.

This peril does not include loss to any covered property:

- a. caused by or resulting from freezing except as provided in the peril of freezing below;
 - b. caused by smog, or the presence, growth, proliferation, spread or any activity of rust, bacteria, mold, wet or dry rot, or **fungi**; or
 - c. caused by constant or repeated seepage or leakage over a period of weeks, months, or years.
12. **Freezing** of plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance, but not gutters.

This peril does not include loss:

- a. on the **residence premises** while the dwelling is vacant, unoccupied or being installed, unless **you** have used reasonable care to:
 - (1) maintain heat in the building; or
 - (2) shut off the water supply and drain the system and appliances of water.
- b. to any covered property caused by constant or repeated seepage or leakage over a period of weeks, months or years;
- c. to any covered property caused by smog, or the presence, growth, proliferation, spread, or any activity of rust, bacteria, mold, wet or dry rot, or **fungi**;
- d. on the **residence premises** caused by accidental discharge or overflow which occurs off the **residence premises**.

e. caused by overflow or backup of water in any form in gutters.

13. **Vandalism or malicious mischief.** This peril does not include loss to property on the **residence premises** if the dwelling has been vacant for more than 30 consecutive days immediately before the loss. A dwelling under construction or a mobile home or manufactured home being installed is not considered vacant.

Also, this peril does not include loss to any computer, computer system, network, hardware, program, **electronic data**, software, data, information repository, microchip, integrated circuit or similar device unless there are visible signs of physical damage to the exterior of the computer, equipment, computer system or non-computer equipment.

14. **Vehicles owned or operated by the insured** or by a tenant of the **residence premises**, resulting from actual physical contact of such a vehicle with covered property or with the building containing covered property. However, **we** do not cover loss to any outdoor equipment, fences, driveways, walks, trees, shrubs and plants, or retaining walls not constituting a part of a covered building.

EXCLUSIONS

We do not insure for loss caused directly or indirectly for any of the following. Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss.

1. **Ordinance or Law**, meaning enforcement of any ordinance or law regulating the construction, repair, or demolition of a building or other structure, unless specifically provided elsewhere under this policy.
2. **Earth Movement**, meaning earthquake including land shock waves or tremors before, during or after a volcanic eruption; landslide; mudflow; erosion, earth sinking, contracting, expanding, rising or shifting. However, if direct loss by fire or explosion ensues, then we will pay for the ensuing loss only.
3. **Water Damage**, meaning:
 - a. flood, whether natural or manmade, surface water, waves, tidal water, overflow of a body of water, or spray from any of these, whether or not driven by wind;
 - b. water or water-borne matter which backs up through sewers or drains or that overflows or is discharged from a sump, sump pump or related equipment; or
 - c. water or water-borne matter below the surface of the ground,

including water which exerts pressure on or seeps or leaks through a building, sidewalk, driveway, foundation, swimming pool, or other structure.

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

4. **Power Failure or Power Interruption**, meaning the failure or interruption of power or other utility service if the failure or interruption takes place off the **residence premises**. But, if a Peril Insured Against ensues on the **residence premises**, we will pay only for that ensuing loss.
5. **Neglect**, meaning neglect of an **insured** to use all reasonable means to save and preserve property at and after the time of loss, or when property is endangered.
6. War and Military Action Exclusion

We will not pay for loss or damage caused by the following, listed below. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

- a. War, including undeclared civil war;
- b. Warlike action by a military force, including action to hinder or defend against an actual, expected, or threatened attack, by any government, sovereign, or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

If there is any action that comes within the terms of this exclusion and involves nuclear reaction or radiation or radioactive-contamination, then this War and Military Action Exclusion supersedes the Nuclear Hazard Exclusion.

7. **Terrorism Exclusion.** Regardless of the amount of damage and losses, this **Terrorism** Exclusion applies to any and all incidents of **terrorism**:
 - a. that involve the use, release or escape of pathogenic or poisonous biological or chemical materials, or
 - b. that could cause the release or escape of pathogenic or poisonous biological or chemical materials; or
 - c. to any incident that directly or indirectly results in nuclear reaction or radiation or radioactive contamination.

We will not pay for loss or damage caused directly or indirectly by **Terrorism**, including action to hinder or defend against an actual, expected or threatened incident of **Terrorism**. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

But if **Terrorism** results in fire, **we** will pay for the loss or damage caused by that fire. However, this exception for fire applies only to direct loss or damage by fire to Covered Property.

With respect to any such activity that also comes within the terms of the War and Military Action Exclusion, that exclusion supersedes the **Terrorism** Exclusion.

In the event of an act of **Terrorism** that involves nuclear reaction or radiation, or radioactive contamination, this **Terrorism** Exclusion supersedes the Nuclear Hazard Exclusion.

8. **Nuclear Hazard**, to the extent set forth in the Nuclear Hazard Clause of the Conditions.
9. **Intentional Acts**, meaning any loss arising out of any act committed:
 - a. by or at the direction of any **insured**;
 - b. with the intent to cause a loss; or
 - c. in a domestic dispute between **insureds**, family members, or others.
10. **We** do not insure under any coverage for loss resulting from one or more of the items below:
 - a. conduct, act, failure to act, or decision of any person, group, organization, or governmental body whether intentional, wrongful, negligent, or without fault;
 - b. defect, weakness, inadequacy, fault or unsoundness in:
 - (1) planning, zoning, development surveying, siting;
 - (2) design, specifications, workmanship, construction, grading, compaction;
 - (3) materials used in construction or repair; or
 - (4) maintenance

of any property (including land, structures, or improvements of any kind) whether on or off the **residence premises**.

However, **we** do insure for any ensuing covered loss from items a. and b. unless the ensuing loss is itself a loss excluded by this section.

11. **We** do not insure for loss under any coverage regardless of whether one or more of the items listed in paragraph 10 above:

- a. directly or indirectly cause, contribute to or aggravate the loss; or
- b. occur before, at the same time, or after the loss or any other cause of the loss.

However, **we** do insure for ensuing covered loss from items 10a and 10b above unless the ensuing loss is itself a loss excluded by this policy.

12. **Asbestos and Lead Removal.** This policy does not insure covered property for damage, loss of use, or expenses arising from:

- a. actual or attempted removal of any asbestos material, lead pipes, lead paint, or any material containing lead, unless the asbestos or lead pipes, lead paint, or any material containing lead, is itself damaged by a Peril Insured Against;
- b. demolition or increased cost of reconstruction, repair, or debris removal, attributable to the enforcement of any law, ordinance or regulation concerning asbestos material, lead paint, lead pipes, or any material containing lead;
- c. any governmental direction or request declaring that asbestos material, lead paint, lead pipes, or any material containing lead, present in, part of, or utilized by any undamaged portion of the **insured's** property can no longer be used for the purpose for which it was intended or installed and must be modified, covered, sealed, protected, or removed.

13. **Pollutants and Pollution Exclusion.** **We** do not insure for loss, cost, or expense:

- a. which would not have occurred in whole or in part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time, by any person, organization or governmental authority; and
- b. arising out of any:
 - (1) request, demand or order that any **insured** or others test for,

monitor, clean-up, remove, remedy, repair, contain, treat, detoxify or neutralize, or in any other way respond to, or assess the effects of **pollutants**; or

- (2) claim or suit by or on behalf of any person, organization or governmental authority for damages because of testing for, monitoring, cleaning up, removing, remedying, repairing, containing, treating, detoxifying or neutralizing, or in any other way responding to, or assessing the effects of **pollutants**.
14. **We** do not insure covered property for damage, loss of use, or expenses caused by radon gas, radium, any other radioactive substance, any gas, or any sound or light. **We** do not cover the cost of any investigations, fines, or other costs related to radon gas, radium, any other radioactive substance, or any other gas or any sound or light.
 15. **Prejudgment Interest.** This policy does not pay prejudgment interest.
 16. **Collapse**, other than as provided in Additional Coverages only.
 17. **Theft**, unless provided for by an endorsement and an additional premium paid.
 18. **We** do not cover loss to lawns, plants, shrubs or trees outside of buildings except as shown in Additional Coverages.
 19. **We** do not cover the following loss or damage to Dwellings, Other Structures, or Personal Property unless shown as covered in Additional Coverages for:
 - a. Wear and tear, marring or scratching, or deterioration;
 - b. Inherent vice or latent defect;
 - c. Mechanical breakdown;
 - d. The presence, growth, proliferation, spread, or any activity of rust, bacteria, mold, mildew, wet or dry rot, or any **fungi**, whether or not, in whole or in part:
 - (1) caused by or resulting from;
 - (2) contributed to by; or
 - (3) aggravated by;

any peril or cause of loss, regardless of whether such peril or cause of loss is covered by this policy, and regardless of whether any other peril or

cause of loss contributed concurrently or in any sequence to such loss.
This exclusion does not apply to Additional Coverage 3.

- e. Contamination, smog or smoke from agricultural smudging or industrial operations;
- f. Settling, cracking, shrinkage, bulging or expansion of pavement, patios, foundations, walls, floors, roofs or ceilings; or
- g. Birds, vermin, rodents, insects or domestic animals, whether or not, in whole or in part;
 - (1) caused by or resulting from;
 - (2) contributed to by; or
 - (3) aggravated by:

any peril or cause of loss, regardless of whether such peril or cause of loss is covered by this policy, and regardless of whether any other peril or cause of loss contributed concurrently or in any sequence to such loss.

20. **We** do not insure for loss or damage arising directly or indirectly out of:

- a. loss of, alteration of, or damage to; or
- b. a reduction in the functionality, availability or operation of;

any computer, computer system, network, hardware, program, software, data, information, repository, microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of an **insured** or others.

- c. **We** will not cover, pay for, or reimburse **you** or anyone else for any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement, or supervision provided to correct, determine, prevent, rectify, or test for any actual, alleged or potential problems described in subparagraphs a. and b. above.
- d. **We** will pay for direct physical loss or damage to covered property caused by a Peril Insured Against, Section I, Coverage C – Personal Property. However, this exception does not apply to any loss or damage that is:
 - (1) otherwise excluded in Section I – Exclusions; or
 - (2) caused by the peril of **Vandalism or Malicious Mischief**, unless there are visible signs or physical damage to the exterior

of such computer system, computer equipment or non-computer equipment.

- e. With respect to loss or damage excluded by this paragraph, if a peril listed in Section I – Perils Insured Against for Coverage C – Personal Property ensues, **we** will pay for the direct physical loss or damage caused by such ensuing peril.

- 21. **Collapse**, other than as provided in Additional Coverages.

CONDITIONS

- A. This section includes **your** duties after a loss occurs and how claims are handled.

- 1. **Insurable Interest and Limit of Liability.** Even if more than one person has an insurable interest in the property covered, **we** will not be liable in any one loss:

- a. to the **insured** for more than the amount of the **insured's** interest at the time of loss; or

- b. for more than the applicable limit of liability.

- 2. **Your Duties After Loss.** In case of a loss to covered property, **you** must see that the following are done:

- a. immediately notify the police or other appropriate law enforcement agency in any case of loss where a crime is suspected;

- b. give prompt notice to **us** or **our** agent;

- c. (1) protect the property from further damage;

- (2) make reasonable and necessary repairs to protect the property;

- (3) keep an accurate record of repair expenses; and

- (4) cooperate with **us** in the investigation and settlement of any claim;

- d. prepare an inventory of damaged personal property showing the quantity, description, how, when, and where acquired, **actual cash value** and amount of loss. Attach all bills, receipts and related documents that justify the figures in the inventory;

- e. as often as **we** reasonably require:
 - (1) allow **us**, or **our** designee(s) to inspect the damaged property;
 - (2) allow **us** to secure, and retain, at **our** expense, evidence relating to the loss;
 - (3) provide **us** with records and documents **we** request and permit **us** to make copies;
 - (4) allow **us** to obtain from **you** and any other person seeking coverage, separate recorded statements; and
 - (5) submit to examination(s) under oath and sign and swear to it;
- f. send to **us**, within 60 days after **our** request, **your** signed, sworn proof of loss which sets forth, to the best of **your** knowledge and belief:
 - (1) the time and cause of loss; and
 - (2) the interest of the **insured** and all others in the property involved and all liens on the property; and
 - (3) other insurance, service agreements, or warranty provisions which may cover the loss; and
 - (4) changes in title or occupancy of the property during the term of the policy; and
 - (5) specifications of damaged buildings and detailed repair estimates; and
 - (6) the inventory of damaged personal property described in 2d above; and
 - (7) receipts for additional living expense incurred or records that support the fair rental value loss.

3. **Loss Settlement.** Covered property losses are settled as follows:

- a. (1) Personal property;
- (2) Awnings, carpeting, household appliances, fences, property lines, sea walls, outdoor equipment, outdoor antennas and swimming pools, whether or not attached to

buildings; and

- (3) Other structures that are not buildings;
- (4) Buildings not permanently attached to, or otherwise forming part of the realty;

at **actual cash value** at the time of loss but not more than the amount required to repair or replace. **Actual cash value** will include consideration of fair market value, age, and condition of the item in question at the time of the loss.

- b. Buildings permanently attached to or otherwise forming a part of the realty, under Coverage A or B at replacement cost without deduction for depreciation, subject to the following:
 - (1) If, at the time of loss, the amount of insurance in this policy on the damaged building is 80% or more of the full replacement cost of the building immediately before the loss, **we** will pay the cost to repair or replace, without deduction for depreciation, but not more than the least of the following amounts:
 - (a) the limit of liability under this policy that applies to the building;
 - (b) the replacement cost of that part of the building damaged for like construction and use on the same premises; or
 - (c) the necessary amount actually spent to repair or replace the damaged building.
 - (2) If, at the time of loss, the amount of insurance in this policy on the damaged building is less than 80% of the full replacement cost of the building immediately before the loss, **we** will pay the greater of the following amounts, but not more than the limit of liability under this policy that applies to the building:
 - (a) the **actual cash value** of that part of the building damaged; or
 - (b) that proportion of the cost to repair or replace, without deduction for depreciation, that part of the building damaged, which the total amount of insurance in this policy on the damaged building bears to 80% of the replacement cost of the building.