

INSURANCE COMPANIES

Members of

Texas Windstorm Insurance Association

5700 South MoPac Expressway, Building E, Suite 530, Austin, Texas 78749

P.O. Box 99090, Austin, Texas 78709-9090

512-899-4900 / Fax 512-899-4950

T.W.I.A. COMMERCIAL POLICY WINDSTORM AND HAIL

A list of all companies participating in the Association is on file in the office of the Texas Department of Insurance and a copy may be obtained on request.

THIS POLICY JACKET WITH THE COMMON DECLARATIONS PAGE, COVERAGE PARTS, AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETES THIS POLICY.

THIS POLICY DOES NOT PROVIDE FLOOD OR WAVE WASH COVERAGE. CONSULT YOUR AGENT FOR AVAILABILITY OF FLOOD COVERAGE.

TEXAS WINDSTORM INSURANCE ASSOCIATION

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call the company's toll-free telephone number for information or to make a complaint at

1-800-788-8247

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at

1-800-252-3439

You may write the Texas Department of Insurance

P.O. Box 149104
Austin, TX 78714-9104
FAX # (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us

To obtain price and policy form comparisons and other information relating to residential property insurance and personal automobile insurance, you may visit the Texas Department of Insurance/Office of Public Insurance Counsel website:

www.helpinsure.com

PREMIUM OR CLAIM DISPUTES: Should you have a dispute concerning your premium or about a claim you should contact the agent or the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY: This notice is for information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Usted pueda llamar al numero de telefono gratis de la compania para informacion o para someter una queja al

1-800-788-8247

Pueda comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al

1-800-252-3439

Pueda escribir al Departamento de Seguros de Texas

P.O. Box 149104
Austin, TX 78714-9104
FAX # (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us

Para obtener formas de comparacion de precios y poliza y otra informacion acerca del seguro de propiedad residencial y del seguro de autom6vil, visite el sitio web del Departamento de Seguros de Texas y la Oficina del Asesor Publico de Seguros:

www.helpinsure.com

DISPUTAS SOBRE PRIMAS O RECLAMOS: Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el agente o la compania primero. Si no se resuelve la disputa, pueda entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA: Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

**TEXAS WINDSTORM INSURANCE ASSOCIATION
COMMERCIAL POLICY
WINDSTORM AND HAIL**

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Texas Windstorm Insurance Association - Commercial Policy

Windstorm and Hail

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy, the words “we”, “us”, and “our” refer to the Texas Windstorm Insurance Association. “You” and “your” refer to the named insured shown in the Declarations.

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:

“Business day” means a day other than a Saturday, Sunday or holiday recognized by the state of Texas.

COVERAGES

COVERED PROPERTY

Covered property, as used in this policy, means the following types of property for which a limit of liability is shown in the Declarations.

COVERAGE A (Building)

We cover:

1. Building or structure, meaning everything which is legally part of the building or structure described in the Declarations. However, we do not cover machinery which is not used solely in the service of the building.
2. Personal property owned by you that is used for the service of and located on the described location, including:
 - a. Fire extinguishing equipment;
 - b. Maintenance equipment and supplies;
 - c. Floor coverings;
 - d. Window shades;

- e. Furnishings of corridors and stairs; and
- f. Appliances used for refrigerating, ventilating, cooking, dishwashing or laundry.

However, you are covered for these items as building landlord, but not if you are a tenant or occupant.

3. Materials and supplies located on or next to the described location used to construct, alter or repair the building or other structures on the described location. The total limit of liability for this coverage is 10% of the Coverage A (Building) limit of liability. This is not additional insurance and does not increase the Coverage A (Building) limit of liability.
4. At your option, 10% of the limit of liability applying to your boarding, rooming, fraternity or sorority houses or apartment buildings (containing 8 or less separate apartments) may be extended as excess insurance to:
 - a. Fences
 - b. Drives
 - c. Walks
 - d. Outdoor Fixtures
 - e. Garages, employees quarters and other outbuildings used in connection with any such building.

This extension does not apply to structures over or partially over water. This is not additional insurance and does not increase the limit of liability.

COVERAGE B (Business Personal Property)

We cover:

Business personal property located in or on the building described in the Declarations, or in the open on the described location, or in a vehicle or railroad car located within 100 feet of the described building, consisting of the following unless otherwise specified in the Declarations:

1. Furniture and fixtures;
2. Machinery and Equipment;
3. Stock, meaning merchandise held in storage or for sale, raw materials, and goods in process or finished, including supplies used in their packing or shipping;
4. All other personal property owned by you;

5. Personal property of others for which you are legally liable, that is:
 - a. Sold but not delivered;
 - b. Held in trust, on consignment, for storage, or;
 - c. Held for repairs.
6. Personal property of your officers, partners or employees, if not otherwise insured. Loss of or damage to the covered property will be adjusted and made payable to you.
7. Labor, materials or services furnished or arranged by you on personal property of others;
8. Your use interest as tenant in improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
 - a. Made a part of the building or structure you occupy but do not own; and
 - b. You acquired or made at your expense but cannot legally remove.
9. Your interest as unit owner in improvements and betterments made to a condominium. Improvements and betterments are fixtures, alterations, installations or additions which are part of:
 - a. The building and contained within the unfinished interior surfaces of the perimeter walls, floors, and ceilings; and
 - b. The exterior surfaces of balconies and terraces.

However, we do not cover property in or on the described location which is defined in the condominium's declarations or by-laws as a common element.

PROPERTY NOT COVERED

1. Unless specifically described in the Declarations, we do not cover:
 - a. Animals;
 - b. Motor or engine propelled vehicles or machines designed for movement on land, including attached machinery or equipment. However, we do cover such vehicles which are not subject to motor vehicle registration, while located in a fully enclosed building, and are:

- (1) Devices and equipment for assisting the handicapped;
 - (2) Lawn and garden equipment not exceeding 18 horsepower;
 - (3) Golf carts;
 - (4) Vehicles or machines used for recreational purposes while located on the described location;
 - (5) Fork Lifts.
- c. Aircraft meaning any device used or designed for flight, except model or hobby aircraft not used or designed to carry people or cargo.
 - d. Watercraft, including outboard motors and furnishings or equipment. However, we do cover watercraft, including outboard motors and furnishings or equipment, while located on land, in a fully enclosed building, on the described location.
 - e. Wharves, docks, piers, boathouses, bulkheads or other structures located over or partially over water and the property in or on;
 - f. Radio or television towers, antennas and satellite signal receiving equipment, windmills, wind chargers, and outside erected signs;
 - g. Metal smokestacks, except when securely fastened to walls of a masonry building;
 - h. Greenhouses and cloth awnings;
 - i. Manuscripts, bullion, records and books of records (except for their physical value in blank);
 - j. Customers goods in laundries, cleaning, or pressing establishments.

2. We do not cover:

- a. Accounts, currency, deeds, or other evidences of debt, money, or securities.
- b. Breakaway walls, or business personal property contained within a breakaway wall enclosure. Breakaway wall means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of

the building or supporting foundation systems.

- c. Property that is covered under another coverage form of this or any other policy in which it is more specifically described, except for the excess of the amount due from the other insurance.

EXTENSIONS OF COVERAGE

1. Debris Removal.

We will pay your expenses to remove debris of covered property caused by or resulting from windstorm or hail that occurs during the policy period. However, we will not pay more than the amount of insurance, nor such proportion of such expense as the amount of insurance bears to the total amount of all insurance, whether such insurance includes this clause or not. This does not increase the limit of liability that applies to the damaged property.

2. Preservation of Property.

If it is necessary to move covered property from the described premises to preserve it from loss or damage by windstorm or hail, we will pay for the expense and any direct physical loss or damage to that property:

- a. While it is being moved or while temporarily stored at another location; and
- b. Only if the loss or damage occurs within 30 days after the property is first moved.

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

3. Reasonable Repairs.

If property is damaged by windstorm or hail, we will pay the reasonable cost you incur for necessary repairs made solely to protect covered property from future damage. This coverage does not increase the limit of liability that applies to the property being repaired.

COVERED CAUSES OF LOSS

We insure for direct physical loss to the covered property caused by windstorm or hail unless the loss is excluded in the Exclusions.

EXCLUSIONS

The following exclusions apply to loss to covered property:

1. Flood.

We will not pay under any and all circumstances for loss or damage caused by or resulting from flood, surface water, waves, storm surge, tides, tidal water, tidal waves, tsunami, seiche, overflow of streams or other bodies of water, or spray from any of these, all whether driven by wind or not.

2. Governmental Action.

We will not pay for loss or damage caused by or resulting from seizure or destruction of property by order of governmental authority.

3. War.

We will not pay for loss or damage caused by or resulting from:

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected 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.

4. Nuclear Hazard.

We will not pay for loss or damage resulting from nuclear reaction or radiation, or radioactive contamination, however caused.

5. Power Failure.

We will not pay for loss or damage resulting from the failure of power or other utility service supplied to the described premises, if the failure occurs away from the described premises. However, we will pay for loss

resulting from physical damage to power, heating or cooling equipment located on the described premises if caused by windstorm or hail.

6. Rain.

We will not pay for loss or damage caused by or resulting from rain, whether driven by wind or not unless wind or hail first makes an opening in the walls or roof of the described building. Then we will only pay for loss to the interior of the building, or the insured property within, caused immediately by rain entering through such openings.

7. Electricity.

We will not pay for loss or damage to electrical devices or wiring caused by electricity resulting from artificial causes.

8. Ordinance or Law.

We will not pay for loss or damage caused directly or indirectly by the enforcement of any ordinance or law:

- a. Regulating the construction or repair of any property; or
- b. Requiring the demolition of any property, including the cost of removing its debris.

9. Business Income/Extra Expense.

We will not pay for loss resulting from the interruption of business or manufacture.

10. Mold, Fungi, or Other Microorganisms.

We will not pay for loss or damage caused by or resulting from fungi or mold and other microorganisms, except as provided in 10.b.

- a. "Fungi or mold and other microorganisms" when used in the policy or in this exclusion means the presence, growth, proliferation, spread or any activity of fungi or mold and other microorganisms.

This exclusion also applies to the cost:

- (1) To remove fungi or mold and other microorganisms from covered property covered under this Texas Windstorm Insurance Association policy.
- (2) To tear out and replace any part of the building or other covered property as needed to gain access to the fungi or mold and other microorganisms; and
- (3) Of testing of air or property to confirm the absence, presence or

level of fungi or mold and other microorganisms;

- b. This exclusion applies unless the fungi or mold and other microorganisms are located upon the portion of covered property which must be repaired or replaced because of sudden and accidental direct physical damage resulting from wind or hail which would otherwise be covered under this policy. For purposes of this exclusion, sudden and accidental shall include a loss event that is hidden or concealed for a period of time until it is detectable. A hidden loss must be reported to us no later than 30 days after the date it was detected or should have been detected.

- c. However, the exception to the exclusion described in "b." above does not include:

- (1) the cost to treat, contain, remove or dispose of the fungi or mold and other microorganisms beyond that which is required to repair or replace the covered property physically damaged by water;
- (2) the cost of any testing of air or property to confirm the absence, presence or level of fungi, mold and other microorganisms whether performed prior to, during or after the removal, repair, restoration or replacement;
- (3) the cost of any decontamination of the covered property covered under this Texas Windstorm Insurance Association policy;
- (4) any increase in loss under this Texas Windstorm Insurance Association policy related to loss of use, debris removal, additional living expense, or diminution in value resulting from c. (1), (2), and (3).

11. Asbestos.

We will not pay for any loss or damage caused by or resulting from asbestos. We do pay for direct physical loss caused by windstorm or hail to covered property containing asbestos materials; however, we will not pay for the additional cost or expense to test for, monitor, clean up, remove, contain, treat, abate or assess the effects of asbestos or asbestos-containing materials.

DEDUCTIBLE

We will not pay for loss or damage to any item in any one occurrence until the amount of loss or damage exceeds the Deductible amount shown in the Declarations for that item. We will then pay the amount of loss or damage for that item in excess of the Deductible amount, up to the applicable limit of liability, after any deduction required by the Coinsurance Condition.

CONDITIONS

1. **Policy Period.** This policy applies only to loss which occurs during the policy period shown in the Declarations.
2. **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 loss:
 - a. for an amount greater than the interest of a person insured under this policy; or
 - b. for more than the applicable limit of liability.
3. **Concealment, Misrepresentation, and Fraud.** This policy is void as to you, if you have intentionally concealed or misrepresented any material fact or circumstance, made false statements or committed fraud relating to this insurance, whether before or after a loss.
4. **Duties After Loss.**
 - a. **Your Duties After Loss.** In case of a loss to covered property caused by windstorm or hail you must:
 - (1) Give us prompt written notice. Include a description of the property involved;
 - (2) Protect the property from further damage;
 - (3) Make reasonable, necessary, and temporary repairs to protect the property;
 - (4) Keep an accurate record of repair expenses;
 - (5) Furnish a complete inventory of damaged personal property showing the quantity, description, and amount of loss. Attach all bills, receipts and related documents which you have that justify the figures in the inventory.
 - (6) As often as we reasonably require:
 - (a) Provide us access to the damaged property;

- (b) Provide us with pertinent records and documents we request and permit us to make copies;
 - (c) Submit to examination under oath and sign and swear to it.
- (7) Send to us if we request, your signed sworn proof of loss within 91 days of our request on a standard form supplied by us. We must request a signed sworn proof of loss not later than the 15th day after we receive your written notice, or we waive our right to require a proof of loss. Such waiver will not waive our other rights under this policy.
- (a) This proof of loss shall state, to the best of your knowledge and belief:
 - (1) The time and cause of loss;
 - (2) The interest of the insured and all others in the property involved, including all liens on the property;
 - (3) Other insurance which may cover the loss;
 - (4) The actual cash value of each item of property and the amount of loss to each item; and
 - (5) The name of the occupant and the occupancy of the building at the time of the loss.
 - (b) If this policy provides replacement cost coverage and you elect to make claim under the replacement cost coverage, this proof of loss shall also state, to the best of your knowledge and belief:
 - (1) The replacement cost of the property; and
 - (2) The full cost of repair or replacement of the loss without deduction for depreciation.
- b. **Our Duties After Loss.**
- (1) Not later than the 15th day after we receive your written notice of claim, we must:
 - (a) Acknowledge receipt of the claim. If our acknowledgment of the claim is not in writing, we will keep a record of the date, method and content of our acknowledgment.
 - (b) Begin any investigation of the claim;

- (c) Specify the information you must provide in accordance with item (7) above.

We may request additional information, if during the investigation of the claim such additional information is necessary.

- (2) After we receive the information we request, we must notify you in writing within 15 business days of whether the claim will be paid, or has been denied or whether more information is needed
- (3) If we do not approve payment of your claim, we must:
 - (a) Give the reason for denying your claim; or
 - (b) Give the reasons we require additional time to process your claim. But, we must either approve or deny your claim within 45 days after our request for additional time.

5. Loss Payment.

- a. If we notify you that we will pay your claim, or part of your claim, we must make payment not later than the 5th business day after we notify you.
- b. If payment of your claim or part of your claim requires the performance of an act by you, we must make payment not later than the 5th business day after the date you perform the act.

6. Catastrophe Claims. If a claim results from a weather related catastrophe or a major natural disaster, each claim handling deadline shown under the Duties After Loss and Loss Payment provisions is extended for an additional 15 days.

Catastrophe or major natural disaster means a weather related event which:

- a. Is declared a disaster under the Texas Government Code Chapter 418; or
- b. Is determined to be a catastrophe by the Texas Department of Insurance.

7. Loss Settlement.

- a. In the event of loss or damage covered by this policy, at our option, we will either:
 - (1) Pay the actual cash value at the time of the loss determined with proper deduction for depreciation; or
 - (2) Pay the cost to repair or replace the damaged property with material of like kind and quality, with proper deduction for depreciation; or

- (3) Pay the specified limit of liability of the damaged property, whichever is less; or
- (4) Take all or any part of the property at an agreed or appraised value; or
- (5) Repair, rebuild or replace the property with other property of like kind and quality within a reasonable time.

- b. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- c. We will not pay you more than your financial interest in the covered property.
- d. If two or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

8. Valuation. We will determine the value of covered property in the event of loss or damage as follows:

- a. At actual cash value as of the time of loss or damage, except as provided in b. and c. below.
- b. Tenant's Improvements and Betterments at:
 - (1) Actual cash value of the lost or damaged property if you make repairs promptly.
 - (2) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
 - (a) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
 - (b) Divide the amount determined in (a) above by the number of days from the installation of improvements to the expiration of the lease. If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.
- (3) Nothing if others pay for repairs or replacement.
- c. Records and books of records, including those which exist on electronic or magnetic media (other than prepackaged software programs), at the cost of:
 - (1) Blank materials for reproducing the records; and
 - (2) Labor to transcribe or copy the records when there is a duplicate.

9. Coinsurance. If a coinsurance percentage is shown in the Declarations, the following condition applies:

We will not pay the full amount of any loss if the value of covered property at the time of loss times the coinsurance percentage shown for it in the Declarations is greater than the limit of liability for the property.

Instead, we will determine the most we will pay using the following steps:

- a. Multiply the value of covered property at the time of loss by the coinsurance percentage;
- b. Divide the limit of liability of the property by the figure determined in step a.;
- c. Multiply the total amount of loss, before the application of any deductible, by the figure determined in step b.; and
- d. Subtract the deductible from the figure determined in step c.

We will pay the amount determined in step d. or the limit of liability, whichever is less. For the remainder, you will either have to rely on other insurance or absorb the loss yourself.

In applying this coinsurance clause we will disregard the value of foundations of buildings which are below the surface of the lowest basement floor or, where there is no basement, which are below the surface of the ground.

We will not consider the cost of removal of debris in the determination of actual cash value when applying the coinsurance clause.

We will not require a special inventory or appraisal of undamaged property if your total claim for loss is:

- a. Less than \$10,000; and
- b. Less than 5% of the limit of liability on described property.

This provision does not waive any of the requirements of the coinsurance clause.

Example No. 1 (Underinsurance):

When:

The value of the property is \$250,000

The coinsurance percentage for it is 80%

The limit of liability for it is \$100,000

The deductible is \$1000

The amount of loss is \$40,000

Step (1) $\$250,000 \times 80\% = \$200,000$

(the minimum amount of insurance to meet your coinsurance requirements)

Step (2) $\$100,000 \div \$200,000 = .50$

Step (3) $\$40,000 \times .50 = \$20,000$

Step (4) $\$20,000 - \$1000 = \$19,000$

We will pay no more than \$19,000. The remaining \$21,000 is not covered.

Example No. 2 (Adequate insurance)

When:

The value of the property is \$250,000

The coinsurance percentage for it is 80%

The limit of liability for it is \$200,000

The deductible is \$2000

The amount of loss is \$40,000

Step (1) $\$250,000 \times 80\% = \$200,000$

(the minimum amount of insurance to meet your coinsurance requirements)

Step (2) $\$200,000 \div \$200,000 = 1.00$

Step (3) $\$40,000 \times 1.00 = \$40,000$

Step (4) $\$40,000 - \$2000 = \$38,000$

We will pay \$38,000 of the loss. No penalty applies.

10. Appraisal. If you and we fail to agree on the actual cash value, amount of loss, or cost of repair or replacement, either can make a written demand for appraisal. Each will then select a competent and independent appraiser and notify the other of the appraiser's identity within 20 days of receipt of the written demand. The two appraisers will choose a competent and independent 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 district court of a judicial district where the loss occurred. The two appraisers will then determine the amount of loss, stating separately the actual cash value and loss to each item.

If the appraisers fail to agree, they will submit their differences to the umpire. An itemized decision agreed to by any two of these three and filed with us will determine the amount of the loss.

Each party will pay its own appraiser and bear the other expenses of the appraisal and umpire equally.

11. Other Insurance.

- a. If property covered by this policy is also covered by other insurance, we will pay only the proportion of a loss caused by windstorm or hail under this policy that the limit of liability applying under this policy

bears to the total amount of insurance covering the property.

- b. If glass or an item of personal property is insured specifically under any other policy, then this policy applies as excess insurance over the specific insurance.
- c. If a loss covered by this policy is also covered by other insurance in the name of a condominium association, the insurance provided in this policy will be excess over the amount collectible under the other insurance.

12. Dispute Resolution. Your legal action against us under this policy may not be sustainable unless you have complied with all the terms of the policy.

You may appeal any act, ruling or decision made by us, or bring a legal action against us, in accordance with Section 2210.551 and Section 2210.552 of the Texas Insurance Code. Your options under each section are as follows:

Section 2210.551. APPEALS.

This section applies to a person insured under this chapter or an authorized representative of the person.

If you are aggrieved by an act, ruling, or decision of the association, you may appeal to the commissioner of insurance not later than the 30th day after the date of that act, ruling or decision. A hearing on an act, ruling, or decision of the association relating to the payment of, the amount of, or the denial of a particular claim shall be held, at the request of the claimant, in the county in which the insured property is located or in Travis County. A decision or order of the commissioner of insurance may be appealed to a district court in the county in which the covered property is located or a district court in Travis County.

Section 2210.552. CLAIM DISPUTES; VENUE.

A person insured under this chapter who is aggrieved by an act, ruling, or decision of the association relating to the payment of, the amount of, or the denial of a claim, may:

- (1) bring an action against the association, including an action under Chapter 541; or
- (2) appeal the act, ruling, or decision under Section 2210.551.

A person may not proceed under both Section 2210.551 and this section for the same act, ruling, or decision. Venue in an action brought under this section, including an action under Chapter 541, against the association is in the county in which the

insured property is located or in a district court in Travis County.

Venue in an action, including an action under Chapter 541, brought under this section in which the claimant joins the department of insurance as a party to the action is only in a district court in Travis County.

- 13. Subrogation (Transfer of Rights of Recovery Against Others to Us). If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing, prior to a loss to your covered property.
- 14. Abandonment of Property. There can be no abandonment of property to us.
- 15. Liberalization. If the Commissioner of Insurance adopts a revision which would broaden or extend the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened or extended coverage will immediately apply to this policy.
- 16. Waiver or Change of Policy Provisions. This policy contains all the agreements between you and us concerning the insurance afforded. You are authorized to make changes in the terms of this policy with our consent; however, this policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy. Your agent is not our authorized representative.
- 17. Mortgage Clause (Without Contribution).
 - a. The word "mortgagee" includes trustee.
 - b. We will pay for any covered loss of or damage to buildings or structures to the mortgagee shown in the Declarations as interests appear.
 - c. The mortgagee has the right to receive loss payment even if the mortgagee has started foreclosure or similar action on the building or structure.
 - d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the mortgagee has the right to receive loss payment if the mortgagee:
 - (1) At our request, pays any premiums due under this policy, if you have failed to do so;

- (2) Submits a signed, sworn statement of loss within 91 days after receiving notice from us of your failure to do so;
- (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgagee.

All of the terms of this policy will then apply directly to the mortgagee. Failure of the mortgagee to comply with d.(1), d.(2) or d.(3) above shall void this policy as to the interest of the mortgagee.

- e. If we pay the mortgagee for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this policy:
 - (1) The mortgagee's rights under the mortgage will be transferred to us to the extent of the amount we pay;
 - (2) The mortgagee's right to recover the full amount of the mortgagee's claim will not be impaired.

At our option, we may pay to the mortgagee the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If this policy is canceled, we will give the mortgagee specifically named in the Declarations written notice of cancellation.

If we cancel the policy, we will give the mortgagee the same number of days notice of cancellation we give you.

If you cancel the policy, we will give the mortgagee notice of cancellation to be effective on the date stated in the notice. The effective date of cancellation cannot be before the 10th day after we mail notice.

We will not give notice of cancellation to any successor or assignee of the mortgagee named in this policy.

- g. If the property described is a dwelling and is foreclosed upon under the deed of trust, the mortgagee may cancel this policy of insurance and will be entitled to any unearned premiums from this policy.

The mortgagee must credit any unearned premium against any deficiency owed by the borrower and return any unearned premium not so credited to the borrower.

18. Cancellation.

- a. You may cancel this policy at any time by notifying us in writing of the date cancellation is to take effect. We will send you any refund due when the policy is returned to us. The refund will be pro rata, subject to a policy minimum retained premium in an amount equal to 180 days or \$100 whichever is applicable. Payment of the minimum retained premium shall not create or extend coverage beyond the cancellation date that you requested. The minimum retained premium is fully earned on the effective date of the policy and you shall owe to us any unpaid balance of the minimum retained premium.
- b. We may cancel this policy by mailing or delivering to you notice in writing of the date cancellation takes effect. The effective date of cancellation cannot be before the 14th day after we mail or deliver the notice. Our notice of cancellation will state the reason for cancellation and will state that if the refund is not included with the notice, it will be returned on demand. The refund will be pro rata.

19. Assignment. Your rights and duties under this policy may not be transferred without our prior written consent except as provided as follows:

- a. If you die, your rights and duties will be transferred to your legal representative subject to our right to verify your legal representative's authority to act in your behalf.
- b. If you sell the real property insured by this policy, you may assign your rights and duties under the policy to the new owner. However:
 - (1) the new owner may not change any of the terms of this policy without our prior written consent; and
 - (2) you, the new owner, or the agent shown in the Declarations must notify us in writing of the change of ownership within 30 days after the real estate closing.

20. Pro Rata Distribution. If one limit of liability applies to two or more separate coverage items A. (building) and B. (business personal property), coverage will apply to each item in the same proportion that the value of each such item bears to the total limit for that item of insurance.

This provision does not apply to items to which 100% coinsurance applies.

**Prescribed by the Texas Department of Insurance
Texas Windstorm Insurance Association**

Commercial Policy

In Witness Whereof, this Association has executed and attested these presents; but this policy shall not be valid unless countersigned by an authorized representative of this Association.

Secretary, Board of Directors

President, Board of Directors