

Loan Guarantee
Insurance Services



LGIS GROUP

Loan Insurance (Contract Liability)

*Policy backed by A.M. Best A rated State
National, a subsidiary of S&P A rated
NYSE Company*

StateNational

V. 13

CONTRACT LIABILITY POLICY

PLEASE READ THIS POLICY AND ITS ATTACHMENTS CAREFULLY

This policy is not valid without a Policy Declarations Page(s) and an attached fully executed Application(s). The Limit of Liability is reduced by Retentions (Deductibles) and Co-Insurance Percentages set forth on the Policy Declarations Page(s). This policy covers only Claims arising and made during the Policy Period set forth on the Policy Declarations Page(s). All defined terms are capitalized.

IN NO EVENT WILL THE CLAIM AMOUNT EXCEED THE ACTUAL AMOUNT OF LOSS OR THE MAXIMUM COVERED AMOUNT IDENTIFIED IN THE POLICY DECLARATIONS PAGE(S).

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Insuring Agreement

In consideration of the payment of the premium and in reliance upon the statements made in the Application, which are made a part hereof and attached hereto, and subject to the Policy Declarations Page(s), and the terms, conditions, limitations and other provisions of this Policy, the Insurer named in the Policy Declarations Page(s) and the Company(s) named in the Policy Declarations Page(s) as Insured agree as follows:

The Insurer shall indemnify Insured for actual Loss sustained arising out of a loan default arising during the Policy Period and Limits set forth in Limit of Liability set forth in the Policy Declarations Page(s). Loss costs may include additional allowable costs for Accrued Interest, Foreclosure and Property Preservation costs and less Retention as defined.

Definitions and Conditions

When used in this Policy, either in the singular or the plural, the following terms have the meanings set forth below and the following conditions apply to this Policy:

- Accrued Interest and Fees at the Contract Rate - Interest earned for the period of time that has elapsed since interest was last paid. Allowable Accrued Interest for a claim is for two (2) months following the time of default. This does not include late charges, higher penalty rate interest, fees, or compounding of interest.
- Attorneys' Fees/Trustee's Fees - If the lender incurs and pays Attorney/Trustee fees to obtain merchantable title, these fees may be included in the claim if they are usual and customary. Additionally, if the Insurer directed the lender to pursue a deficiency judgment, attorney's fees for such services may also be included in the claim. The Attorney/Trustee fees shall be reasonable for the services performed. Attorney/Trustee fees for related foreclosure expenses are a part of the 2% of the unpaid principal balance in the Foreclosure and Property Preservation allowance added to a claim.
- Bankruptcy and "Bad Boy" Protections: Insured lender shall obtain a commitment from the borrower in consideration of this loan insurance that borrower will not voluntarily seek bankruptcy protection or violate the "bad boy" covenants in a loan document, and by violating that commitment will agree to reimburse the Insurer for all Losses paid and expenses incurred related to a Claim.
- Claim: Means a request made by the Insured lender for remittance by the Insurer of payment due to Loss incurred and covered under the Policy.
- Coinsurance Percentage: The percentage of the Unpaid Loan Balance insured.
- Completion Option – Should the project not have been completed and stabilized, Insurer has the option to complete and fill the project utilizing the borrower's loan agreement. Insurer is permitted to step into the place of the borrower, at its election, once Insured lender has declared the loan in default and draw on the remaining loan to complete and stabilize the project. Insurer

also has the election of doing so with or without acquiring a deed-in-lieu of foreclosure or approving a short sale.

- Foreclosure Allowance - Expenses associated with proceedings to acquire title, such as court costs, filing fees, publication charges, and land sheriff's fees are considered foreclosure expenses and are part of the two percent (2%) of the Unpaid Principal Balance allowance for Foreclosure and Property Preservation allowance added to a claim. Appraisal or valuation fees are claimable only when required as part of a statutory foreclosure process and also part of this allowance. The Foreclosure Allowance does not apply in the event of a short sale.
- Hazard Insurance Premiums - These premiums shall have been paid with the lender's funds, and pro-rated to the date of the foreclosure sale, or the date the property is sold for a maximum of two (2) months from default and included in the Preservation of Property allowance added to a claim. In cases where the lender did not require an escrow or impound for the payment of insurance premiums, this insurance shall not cover insurance premiums prior to the date to which interest is paid.
- In-House Servicers - Lenders using in-house counsel or other in-house sources to perform services should confer with the Insurer regarding the amount of reimbursement that will be made and the service that will be performed. The amount allowed shall be based upon the cost(s) that normally would be charged in an "arms-length" transaction in the subject locale. Normal costs incurred in the collection and loan servicing process will not be reimbursed (i.e., property inspection costs, long distance telephone costs, postage costs, photocopy charges, photograph expenses, etc.).
- Insured – The Lender or Company named in the Policy Declarations Pages(s) as the Insured. No other person or entity other than the Insured has an interest in this Policy unless the interest is identified in an endorsement affixed to this Policy.
- Limit of Liability - A maximum amount resulting from the coinsurance percentage multiplied by the maximum loan amount and stated on the Declarations Page(s).
- Loss – A Loss is when the gross sale price, adjusted for closing prorations, less the Unpaid Balance is negative. A Loss claim amount will be further adjusted for by adding: 1) allowable Foreclosure and Property Preservation expenses, 2) allowable Accrued Interest and subtracting: 1) Retention, 2) Loan fees, application fees, commitment fees and/or equivalent that exceed 2% of the loan amount; Developer profit/overhead advances that exceeds 5% of the project completion; debt amounts above approve budget line items, Retainage and deposits held by the Insured lender, or by a third party. The maximum Loss amount to be paid is the stated on the Declarations Page as Limit of Liability.
- Other Lender Requirements as to Borrower - Borrower requirements and affirmations shall include: 1) Compliance with all Loan Documents, 2) Annual Borrower Requirements – operating information, financial statements and tax returns as requested by the Insurer and Insured, 3) Property Access, 4) Adequately staffed professional management.
- Policy – Means the Policy Declarations Page(s), the Application, Binder, any Endorsements, and the terms, conditions and limitations of this document (Contract Liability Policy).
- Pollutant – 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.

- Premium: Is fully earned once received at inception with no refund or rebate available. Premiums are also fully earned when received at different time periods as agreed, such as an additional extension premium, back end premium, etc.
- Property Preservation Allowance - To be claimed as an allowable expense, reasonable normal maintenance expenses shall have actually been advanced by the lender from lender's funds. Normal maintenance includes the winterization, securing, cleaning, heating, yard care and security needed to maintain the property in a reasonable condition. Allowable Property Preservation Allowance and Foreclosure Allowance cannot exceed 2% of the Unpaid Principal Balance.
- Property Taxes and Special Assessments - To be included in the claim, property taxes and any amounts paid toward special assessments shall actually have been advanced from the lender's funds and shall be pro-rated to the date of the foreclosure sale, or date the property is sold for a maximum of two (2) months from default and included in the Property Preservation Allowance.
- Rehabilitation Expenses - Examples of rehabilitation expenses include painting of walls, cleaning carpets, or replacing drapes. This insurance does not provide reimbursement for these types of expenses.
- Restoration Expenses - Restoration expenses required to restore the property, particularly in preparation for a foreclosure or short sale, to the condition disclosed to the Insurer, at the time the Loan Insurance Binder or commitment was issued, are not allowable. The Insured lender must absorb Restoration Expenses if they are not covered by casualty insurance. Examples of such expenses include but are not limited to those resulting from negligence, failure to winterize, floods, fires, termites, vandalism, defective heating plants, removal of built-ins and appliances, freeze-up, defective construction remodeling, etc. This insurance does not provide reimbursement for these types of expenses.
- Retention or Deductible: All claims will have a minimum Lender deductible of 2% of the full Loan Amount. The Deductible percentage may increase based on underwriting and stated in the Policy Declarations Page(s).
- Term – the Policy term is listed on the Declarations Page, along with any extension options detailed by endorsement.
- Unpaid Principal Balance - The amount which remains to be paid on the original principal amount of the loan at the time of default is the unpaid principal balance. This excludes unpaid interest and capitalization for any advances by the insured (e.g. taxes, insurance, and other expenses).

Duties of Insured and Limitations of Coverage/Certain Actions Void Coverage

Requirements

- Architectural Approval – Insurer's approved architect must approve all plans and specifications prior to the start of construction.
- Assignment of Security Interest in the Contracts – Insured lender shall obtain from the borrower an assignment to the lender and grant to the lender, a security interest in all contracts to build, architectural and engineering contracts and subcontracts, plans and specifications, surveys, architectural renderings or models and completion bonds, and any other contract

documents, including any and all marketing material and agreements, together with all proceeds as collateral for the loan. The Insured lender shall have an assignment of deposits for water, gas, electrical or other utilities services or hook-ups as applicable. Insured lender shall also require Borrower to assign any entitlements, legal work for entitlements, completed or in progress, as the case may be.

- Bankruptcy and “Bad Boy” Protections – Insured lender shall obtain borrower’s signed acknowledgment on the Application that agreement that seeking any form of bankruptcy protection or violating the “bad boy” covenants in a loan document will obligate the borrower to agree to reimburse the Insurer for all Losses paid and expenses incurred related to a Claim.
- Billing and Information Statements - The Insured lender will provide the Insurer with monthly billings statements and correspondence similar to that provided by the borrower. The Insurer may also request other reasonable information be provided on the status of the loan, including, but not limited to requests for copies of inspection reports, collection records, draw requests, copies of operating and financial statements (monthly, quarterly or annual as deemed appropriate). The Insurer may also require the Insured lender to use its own monthly inspector, to save time and reduce cost.
- Change Orders, Retention and Changes in the Cost Breakdown – Insurer will review the lender’s policy for handling change orders, changes in the detailed cost breakdown, amount of retention and use or reallocation of contingency funds. Insurer may require modification to insure that appropriate amounts are being used for the subject project.
- Changes in Ownership - There shall be no change in the ownership of the project without the prior written consent of Insurer.
- Changes in Plans and Specifications – After Insurer’s Architect has approved the plans and specifications, there shall be no substantive change without Insurer’s prior written approval.
- Collateral for the Loan - The borrower's obligation under the note, the loan agreement and the lender's commitment letter shall be secured by a trust deed and other such security documents as may be required. The borrower shall procure and deliver to Insured lender at closing, a prepaid ALTA Mortgagee's Loan Policy of Title Insurance (1970), or an equivalent policy approved by Insured lender. The policy shall be issued from the Title Insurer in a sum equal to the maximum amount of the loan, and shall insure the trust deed as a valid first lien on the property, subject only to current real property taxes not yet due or payable and such other exceptions approved in writing by the Insurer prior to closing. Said policy of title insurance shall contain the following endorsements: ALTA Lender Mechanic's Lien, Survey and Foundations Endorsement assuring that the foundation(s) do not violate applicable covenants, conditions or restrictions, and do not encroach onto easements or adjoining land, which Foundation Endorsement(s) shall be issued within one month after completion of the relevant foundations.
- Compliance with Take-Out - All steps that are practical shall be taken to insure compliance with terms of the take-out commitment, if appropriate, prior to the loan closing and continue throughout the loan.
- Conformance with Governmental Requirements & Plans and Specifications – All construction work and material shall be in accordance with good building practices and in conformity with Governmental Requirements of all applicable Governmental Authorities, including but not limited to compliance with all building codes, zoning regulations, Fair Housing, Uniform

Accessibility Standards, and Americans with Disabilities Act, as applicable. All improvements shall be made in strict accordance with the plans and specifications, as approved by the Insured lender and Insurer. Any substantive changes in the plans and specifications, not approved by Insurer's architect, **shall void this Policy.**

- Excess Cost/Equity Contribution - Any cost to complete the project above the approved loan amount(s) shall be evidenced by cash or its equivalent, and deposited by borrower with the Insured lender, prior to funding loan dollars. If the excess cost/equity contribution is not to be made before the lender advances loan proceeds, Insurer's approval, in writing, for the deferral of payment shall be required.
- Experienced Servicing and Underwriting – Insured lender is required to have experienced servicing and collection staff to insure adequate loan administration including loan accounting, account activity and collection logs. Insured lender shall have written loan serving / administration and collection policies and procedures. Additionally, Insured lender shall have adequate experienced staff to carry out prudent loan servings / monitoring and collection policies. Insured lender shall underwrite each loan in a thoughtful, thorough and accurate fashion commensurate with the sophistication and size of the loan project.
- Final Cost Breakdown – The Insured lender shall submit to Insurer a final cost breakdown (broken into major categories and including all major trades in a standard AIA form) detailing hard and soft costs, signed by the borrower and accompanied by written approval from the lender.
- Insurance and Taxes – The Insured lender shall require impounding of typical property insurance and taxes.
- Lien Policy - The Insured lender shall have a specific policy with regard to the handling of mechanic's and material liens in a prompt manner and bond off where practicable.
- Loan Agreement – The Insured lender shall enter into a loan agreement with the borrower, setting forth the terms and conditions of the loan and the disbursement of loan proceeds. The agreement shall contain language that disbursements for hard costs requires an inspection by a qualified construction inspector, retained by the lender or on the lender's staff, and that any funds advanced will correspond to the appropriate percentage of completion. The inspector at Insurer's discretion may be recommended and / or approved by Insurer. Insured lender shall adhere to and enforce all loan documents at all times.
- Loan Defaults – Insured lenders shall use appropriate and prompt action in monitoring and dealing with all loan defaults. Each default shall be dealt with in a prompt and appropriate manner. Insured lenders shall keep reasonable logs and copies of correspondence to document their loan monitoring activities in the event of a default. In the event of a claim, Insured lenders may be requested to provide written documentation of loan monitoring and collection activities.
- Loan Requirements: The Insured lender shall follow prudent loan underwriting practices, and shall include a contingency category in the construction or renovation budget, and adequate funds to cover operating costs until the project reaches a stabilized break even level.
- Monthly Inspection Reports, Change Orders Exceeding \$25,000 - During construction any change orders exceeding \$25,000 and materially affecting the design, utility or building materials shall be approved by Insurer's Architect. The Insured lender must provide copies of monthly inspection reports (including color photographs), draw requests, loan status reports

(construction loan budget and loan disbursement status). Insured lender shall obtain monthly lien endorsements, and should monitor loan administration activities to insure lien waivers are obtained, as appropriate, from suppliers and laborers.

- Operating / Financial Statements. The Insured lender shall review the borrowing entity's statements to be aware of any potential problems and make appropriate recommendations. The Insured lender shall immediately notify Insurer of any concerns in writing. However, in the event of a claim against this Policy, the Insured lender should be prepared to provide documentation that the monthly inspections have been performed.
- Ownership of Materials and Fixtures - No materials, equipment, or fixtures incorporated by the borrower in the construction of the project shall be purchased or installed under any security agreement, conditional sales contract, or other arrangement wherein the seller reserves or purports to reserve title or any interest in such items or the right to remove or repossess such items, or to consider them personal property after their incorporation in the project.
- Performance and Payment Bonds - Performance and payment bonds are to be considered on all loans in excess of \$1,000,000, and on all subcontracts in excess of \$50,000, but are required on all construction loans in excess of \$5,000,000.
- Prompt Notification - The Insured lender shall promptly advise Insurer in writing, of any litigation, regardless of amount, affecting the property, and all complaints or charges made by any governmental authority exercising supervision or control of the borrower, or their business, which may delay or require changes in the construction of the project or impair the lender's security.
- Property Inspection – A representative of the Insured lender will inspect the property each month and particularly prior to any draw request, if needed. The inspector will make copies of the inspection report with any draw request / paper work simultaneously to both Insured lender and Insurer. Additionally, Insurer, through its employees, or agents, shall, at all reasonable times during construction or the Policy Period, have the right of entry and free access to the project and the right to inspect the work of construction and to examine and make copies of the plans and specifications and all detailed plans and shop drawings which are or may be kept at the construction site, and all books, records, contracts, accounting data, and other documents of the borrower. Insured shall provide for such right of access and inspection in its loan documents.
- Sale, Secondary Financing or Other Liens and Encumbrances -The borrower and Insured lender shall agree that without prior written approval, from Insurer, during the policy period, there shall be no sale, secondary financing, or other liens and encumbrances against the project or any other properties (real or personal) which are security for the loan. In the event written consent is given by Insurer, any and all financing and liens shall be absolutely and unconditionally subordinated to the first mortgage lien.
- Servicing Procedures – Insured lender's servicing policies shall include written notification to borrowers in the event that loan payments are not received within 15 days of their due date, with subsequent follow-up as appropriate for the circumstances of the delinquency. Policies and procedures should address appropriate plans of action and loan monitoring for loans that are 30 and 60 days or more past due. In any event, a loan that is 60 days or more in default must be inspected by the Insured lender or a representative of the lender prior to the 70th day

of default. Insured lenders shall arrange site inspections for loans that are experiencing recurring 45 day delinquencies.

- Stored Materials – This insurance shall not cover disbursements for materials not yet incorporated into the relevant phase of the project, unless the stored materials will be used within 30 days, and the invoiced costs of such stored items is not in excess of \$2,500. The materials shall be properly stored and secured on-site in order to prevent weather damage, theft and vandalism. Off-site storage shall not be covered without the prior written consent of Insurer.
- The Loan Must Remain in Balance – Insured lender agrees that the loan shall at all times remain in balance. The loan shall be deemed to be in balance if the undistributed proceeds of the loan will be equal to or exceed the amount necessary to pay for all work completed and all materials delivered, for which payment has not been made, and the cost of completing construction of the relevant phase of the project, in accordance with the plans and specifications and the detailed cost breakdown for such phase. **If the Insured lender elects to disburse funds for an out of balance loan without the written authorization of Insurer such disbursement shall void this Policy.**
- Violation of Loan Documents - If a borrower violates the underlying loan documents, or “bad boy” carve-outs, Insured lender must pursue the borrower as a condition precedent to a claim under this Policy.

Exclusions

The Insurer shall not be liable for Loss on account of any Claim made by the Insured(s):

- If the Insured knew, or should have known, of the borrower’s false or misleading statements or misrepresentations in the application for a loan.
- If the Insured knew, or should have known, of the borrower or commits fraud or any other violations of the “bad boy” covenants during the loan period.
- If the Claim is based upon or arising out of a default or circumstance for which notice was given by Insured under any policy for which this Policy is directly or indirectly a renewal or replacement
- If the Claim arises from property owned by the Insured or its employee(s)
- For that portion of any Loss which is attributable to the release, seepage or migration of Pollutants
- For that portion of any Loss which is attributable to the testing, monitoring, clean up, removal, containment or treatment of Pollutants
- For that portion of any Loss which is attributable to evacuation or physical damage to property because of a nuclear or ionizing radiation event
- For that portion of any Loss which is attributable to evacuation or physical damage to property because of terrorism or act of terrorism, war, insurrection, rebellion or civil disturbance
- For that portion of any Loss which is attributable to hazard, windstorm or hail, flood, rising water, conflagration, fire or explosion, or Act of God

- For that portion of any Loss which is attributable to the failure to maintain Hazard Insurance, property / casualty or other proper insurance on the property
- For that portion of any Loss which is attributable to the modification of any building, or providing any accommodation, pursuant to the Americans with Disabilities Act, or any rules or regulations promulgated thereunder, or any similar provisions of any federal, state or local law
- For that portion of any Loss which is attributable to condemnation
- For that portion of any Loss which is attributable to inability to access the property by reason of force majeure
- For that portion of any Loss which is attributable to Rehabilitation Expenses or Restoration Expenses.

Limits of Liability, Retentions and Coinsurance

Insurer's liability with respect to Loss arising from a Claim shall apply only to that part of the Loss as defined. Insured shall bear all loss and risk for its Coinsurance Share set forth in the Policy Declarations Page(s).

IN NO EVENT WILL THE CLAIM AMOUNT EXCEED THE ACTUAL AMOUNT OF LOSS OR THE MAXIMUM COVERED AMOUNT IDENTIFIED IN THE POLICY DECLARATIONS PAGE(S).

Notice and Claim Filing

Insured shall, as a condition precedent to its rights under this Policy, give to insurer notice of any default or anticipated default in the following manner:

Notice of Defaults and Loan Delinquencies shall be given as set forth in the section below.

Filing a claim must be made prior to policy period termination or expiration and is accomplished by providing a detailed written request on forms provided by Insurer, accompanied by the required exhibits and signed by an authorized representative of the lender. The Insured lender or its servicer shall provide a statement indicating the anticipated claim amount 15 days prior to a foreclosure sale or short sale.

To expedite the processing of a claim, the following supporting exhibits shall be submitted to Insurer:

- Title Transfer Document - On approved foreclosure or short sales, a copy of an acceptable documents and closing statements evidencing that title has been transferred to a third party.

- Loan History - A copy of the mortgage loan history or a reproduction of the loan transaction history shall be included. The loan history shall include the time period from the inception of the Loan Insurance coverage through the date of the foreclosure or short sale. All expense items included in the claim shall be indicated on the loan history. Copies of billing/receipts shall also be included, and evidence of payment.
- Loan Origination Closing Statements - A copy of all closing statements at the time the loan was made.
- Lender Collection Records - A copy of all notes and correspondence, including notes about telephone contacts, made during the course of collection.
- Tax Bills - A current tax bill statement, even if no part of these taxes were paid from the lender's funds.
- Note and Addendum - A copy of the note and any addendums, a description of any repayment features, and copies of any loan modification agreements.

The insured shall follow the Default and Claims Serving Guide attached as Exhibit A and has acknowledged receipt.

Defaults and Loan Delinquencies

Prior to the loan becoming 60 days delinquent, or prior to the initiation of foreclosure, if it occurs before the 60th day of the delinquency, the Insured lender shall notify Insurer and discuss the circumstances surrounding the delinquency.

When a loan is 60 days delinquent, Insurer has the ongoing option to require that foreclosure be initiated unless the default is cured in full. Only one default and cure under this Policy is permitted for any 12 month period. If foreclosure is initiated, the Insured lender must continue to inspect the property and make sure it is adequately secured and protected. Insured lender shall inspect the property at least every 30 days. At its sole option and discretion, Insurer may elect to control the disposition process once the deed has been secured by the Insured lender to assure maximum value in case of sale, or paying a Claim, less adjustments, and taking title/ownership of the property without a sale.

Deed-in-lieu of Foreclosure or Short Sale: In certain instances, Insurer may agree to a deed-in-lieu of foreclosure or short sale, at its option and request provided all liens are known. In the event Insurer agrees to a deed-in-lieu of foreclosure or short sale, Insurer and the Insured lender will enter into a written agreement about covered costs and a settlement of the obligations under this Policy.

Insurer reserves the right to cure monetary defaults. In some instances Insurer may determine, that despite the existence of a default, the project is viable, and the circumstances surrounding the default have been mitigated, are unlikely to reoccur, or the situation has stabilized. If Insurer elects to cure the default, it will pay past due installments at the note rate in effect if the loan was not in default, and actual late charges (not to exceed 2% of the monthly payment amount), any legal fees

or costs incurred to process a foreclosure or short sale/or any legal fees and costs incurred with direct relationship to curing the default/or resolving the default; including, but not limited to, payment of property taxes (pro-rated) and insurance premiums (pro-rated).

As a condition of curing the default, Insurer may require that the borrower enter into a repayment agreement for any funds advanced to cure the default. The amount of the available insurance will be reduced by an amount equal to any advances made by Insurer to cure the default. In the event Insurer recoups monies advanced, the amount of the available insurance will be increased by a like amount (less any interest costs or charges).

Claims and Settlement of Loss

Insurer shall pay the Loss under this Policy within 60 days from the date of receipt of a completed and accurate claim. The Insured lender shall provide a hold harmless agreement to Insurer, releasing it from any further liability and loss due to the default of the borrower upon payment of this insurance by Insurer.

The Insured lender has 30 days from date of a foreclosure sale to submit a claim with documentation. Insurer shall advise the Insured lender of a claim amount approved, and the Insured lender shall have 30 days to accept or reject the approved amount. The Insured lender shall submit, in writing, a documented reason for rejecting the claim amount approved. Insured shall review the Insured lender's appeal and respond within 45 days. If no agreement is reached within thirty days of Insurer's response, Insured shall have a right to bring an action against Insurer as set forth herein.

Miscellaneous Claim Reductions - The following items are monies that shall be deducted from the claimable costs to determine the final claim amount:

1. The amount of all rents and other payments collected or received by the lender, which are derived from or in any way related to the property.
2. The amount of cash remaining in any escrow account as of the last payment date.
3. The amount of the cash to which the lender has retained the right of possession as security for the loan (e.g., funds in a loan-in-process account, a set-aside account, a pledged account, completion escrow, or buy down account).
4. The amount received under applicable fire and extended coverage insurance policies, or any insurance policies, that is in excess of the cost of restoring and repairing the property and which has not been applied to the payment of the loan.
5. And any other funds available to the lender which may reduce the lender's exposure.

Computing the Payable Loss

Examples of Computations in the event of a Claim:

Examples of how this insurance would function in the event of a claim against this Policy under two scenarios are as follows:

EXAMPLE OF OPTION A – Completed Project

A 50% Co-Insurance Policy is issued on a \$5,000,000 permanent loan. The maximum aggregate dollar insurance is \$2,500,000, regardless of allowable foreclosure and property preservation costs. **As the loan principal balance is reduced so is the amount of coverage on the principal balance.** Allowable foreclosure and property preservation costs (up to 2% of the unpaid principal balance) are covered, provided they do not exceed the percentage of Loan Insurance coverage times the unpaid principal loan balance. If the same loan were foreclosed and the principal balance was reduced to \$4,000,000 on the date of foreclosure, with foreclosure and property preservation costs of \$25,000, the insurance would cover 50% of the unpaid principal balance and allowable foreclosure and property preservation costs.

The amount of the coverage would be calculated as follows – if project is completed:

MAXIMUM PAYMENT ALLOWED UNDER POLICY

Original Loan Amount	\$5,000,000
Insurance Percentage	x 50%
Maximum Payment Amount	\$2,500,000

PRINCIPAL COVERAGE

Principal balance on date of Foreclosure	\$4,000,000
Insurance Percentage	x 50%
Principal Coverage	\$2,000,000

ALLOWABLE FORECLOSURE & PROPERTY PRESERVATION COSTS

Principal balance on date of Foreclosure	\$4,000,000
2% allowance	x 2%
Allowable Foreclosure & Prop. Preservation Costs	\$ 80,000

QUALIFIED PAYMENT AMOUNT

Principal Balance Allowance	\$2,000,000
Allowance for Foreclosure/Preservation Costs	\$ 80,000
Qualified Payment Amount	\$2,080,000
LESS: Lender Deductible (2% of Full Loan Amount)	(\$ 100,000)

Total Max. Coverage Under Completed Project Scenario \$1,980,000

EXAMPLE OF OPTION B – Uncompleted Project

1. If the construction/renovation/rehabilitation is completed (as evidenced by a completion notice and required completion guarantee of borrower), and there are no disputed payments, material or mechanic liens on the property, this insurance would include the entire disbursed amount, subject to Co-Insurance, less retention and deposits as the qualified principal amount.
2. If the construction/rehabilitation is not completed, this insurance would function as follows:
 - a. The Insured lender has the option to complete the project. This insurance is left intact. The lender has the option to find a suitable substitute borrower, or sell the project. In the event Insurer advances any monies under this scenario, the insurance amount available will be reduced by the amount of money advanced to complete the project. Insurer will pay, to the Insured lender, an amount up to the Co-Insurance percentage on the unpaid principal amount, to complete the project. Foreclosure and property preservation costs would be covered.
 - b. If the lender does not elect to complete the project, Insurer may elect to cure the default, subject to agreement with the Insured lender, and utilizing and unfunded loan remain if desired.
 - c. If the Insured lender does not elect to complete the project and the Insured lender and Insurer cannot come to agreement over Insurer curing the default and completion of the project, Insurer will pay-out the applicable Co-Insurance percentage based on the percentage of project completion, subject to deductions for items not covered.

For example: Based upon a review by Insurer’s architect, of the construction loan budget and materials in place, a project is determined to be 25% complete. The Insured lender has disbursed 35% of the construction loan. Under this scenario the Policy coverage will include:

- 50% of the loan amount advanced. The amount of developer profit included in the amount advanced may not exceed 20% of the funds advanced.
- Allowable foreclosure/property preservation costs not to exceed 2% of the unpaid principal balance.

- 50% of interest, at the note rate, for a period not to exceed two months or 60 days from the date in which the Notice of Intent to Foreclose was filed, whichever comes first, on the outstanding principal balance.

At settlement, interest will be paid calculated based upon the number of days in the period. Interest will not be paid upon interest. For example: the outstanding loan balance, on the date the Notice of Intent to Foreclose was filed was \$1,750,000, which represents 35% of the loan amount of \$5,000,000. The Insurer will pay based upon 25% completion and assuming a 50% Co-Insurance.

For example:

Construction Loan Amount = \$5,000,000
 Lender Advance = \$1,750,000 or 35% of project completion

Insurer determines that the project is 25% completed
 25% of Loan Amount = \$1,250,000

Allowable foreclosure/property preservation costs not to exceed 2% of the Loan unpaid balance
 2% of \$1,750,000 = \$35,000

Interest will be paid from default date not to exceed 60 days. The amount to be paid is based upon the note rate, the Insurer determined completion amount (which in this case is 25% of the loan amount or \$1,250,000). In this example, assume the interest rate is 6.0% and the unpaid principal loan balance on date intent was filed was \$1,750,000. Insurer shall figure the interest on \$1,250,000, since it represents the dollar amount of the project completion. Interest is calculated as follows:

$$\begin{aligned} \$1,250,000 \times 6.0\% &= \$75,000 \\ \$75,000 / 365 \text{ days} &= \$205.48 \text{ per diem interest} \end{aligned}$$

$$\text{Interest Coverage} = \$205.48 \text{ per diem interest} \times \text{number of days not to exceed 60 days} \times 50\% \text{ (amount of Co-Insurance)}$$

Summary of what Policy would pay under this scenario:

QUALIFIED PAYMENT AMOUNT	
Principal Coverage (\$1,250,000 x 50%)	\$625,000.00
Interest Coverage (based upon 60 days) (\$205.48 X 60 X 50%)	\$ 6,164.40
Foreclosure and Preservation Costs (not to exceed actual costs)	\$ 35,000.00
LESS: Lender Deductible (2% of full Loan Amount)	<u>(\$100,000.00)</u>
Total Coverage Under Uncompleted Project Option	\$566,164.40

Other Insurance

If any Loss is insured under any similar insurance, this Policy is excess to the other insurance, but only to the extent of the Loss defined under this Policy.

Changes in Exposure

If Insured makes additional loans or advances to the borrower beyond the terms of the loan that is the subject of this Policy, or renegotiates any covenants associated with the issuance of the loan that is the subject of this Policy, without the consent of Insurer, no coverage is afforded under this Policy.

Representations and Severability

All statements made in the Application are deemed material and this Policy is issued in reliance upon the statements made in the Application.

Should any provision of this Policy be declared invalid by a court of appropriate jurisdiction, the remainder of this Policy shall remain in full force and effect unless the portion invalidated would render the enforcement of the Policy or its terms impossible.

Territory

This Policy is restricted to loans on property in the United States and U.S. Territories.

Termination of Coverage

This policy shall terminate at the earlier of:

- The refinancing of the loan which is the subject of this Policy
- The repayment of the loan which is the subject of this Policy
- The termination date of coverage stated in the Policy Declarations Page(s)
- Insured and Insurer mutual consent to termination in writing
- Provisions in the Policy calling for termination or the Policy null and void
- Failure of the Insured lender and its servicer to administer the loan, according to the terms and conditions of the Program under which this Policy was issued.

Subrogation

In the event of any payment under this Policy on account of a Loss, Insurer is subrogated to the extent of such payment to all of the Insured's right of recovery, whether as to borrower's obligations or as to the obligations of any third party with respect to the property which is the subject of a loan covered by this Policy. Insured shall cooperate and do everything necessary to protect all rights and avenues of potential recovery, including where necessary permission or assignments which will allow Insurer to bring suit in the name of Insured. The borrower shall specifically be liable to Insurer for any Losses paid by Insurer if borrower files for bankruptcy or commits a violation of the "bad boy" covenants in a loan document.

Recoveries

Recovery of any Loss paid under this Policy, whether accomplished by Insured or Insurer, shall be returned to the Insurer first to the full extent of claims and expenses incurred.

In the event the Insured pursues the borrower for a deficiency judgment and prevails in the courts, the lender shall refund the Insurer's share of the proceeds first, if actually paid. The Insurer will allow the Insured lender to reimburse itself for any reasonable costs incurred in pursuing the judgment, its actual out of pocket loss. Any excess funds shall be repaid to Insurer for up to the amount advanced plus expenses by Insurer.

In the event the Insured lender acquires the property, through a foreclosure sale or deed-in-lieu, and the property is subsequently sold, the Insured lender shall repay the Insurer for monies actually advanced, from the proceeds of any profit, less the allowance for any costs incurred in the sale and the holding of the property.

Action against Insurer

No action shall lie against Insurer unless, as a condition precedent thereto, Insured shall have been in complete compliance with all of the terms of this Policy. No person or entity shall have any right under this Policy unless they are the Insured named in the Policy Declarations Page(s).

Alteration and Assignment

This Policy may not be altered or amended except by written endorsement to this Policy signed by an authorized representative of Insurer. This Policy may not be assigned nor interest given in this Policy except by written endorsement to this Policy signed by an authorized representative of Insurer. If the Insured is acquired by or merged with a company that is also a lender, Insurer will not unreasonably withhold consent to an assignment of this Policy.

Arbitration

Insured and Insurer will submit any dispute relating to this Policy to binding arbitration pursuant to the commercial arbitration rules of the American Arbitration Association effective as of the date of the Loss. In any such arbitration, Insured and Insurer will each bear its own legal fees and expenses.

ENDORSEMENT NO _____

Effective [at inception or date]

United Specialty Insurance Company, a
subsidiary of State National Insurance
Company

Issued to:

To be attached to and form a part of Policy
Number:

Exhibit A
Default and Claims Servicing Guide

Exhibit B
LOAN INSURANCE APPLICATION

This application may be used as a Preliminary Loan Insurance Application or as a Final Application if all required attachments have been made and the Application updated. All Application information is made part of the final policy.

General Information:

1. Business Name (dba): _____
2. Legal name: _____
3. Mailing Address: _____
4. Physical Address: _____
5. Contact person: _____
6. Email Address of Contact: _____
7. Phone Number of Contact: _____

Description of Loan & Exposure:

1. Address of Subject Property: _____
2. Legal Description of Property: _____
3. Project Description: _____
4. Borrower Information: _____
5. Lender Information: _____
6. Terms of Loan: _____
7. Type of Loan: _____
8. Loan Guarantees : _____

Coverage Requested:

1. Limit of Liability: _____
2. Coinsurance Percentage: _____
3. Requested Deductible (If Not Standard): _____
4. Proposed Effective Date and Expiration Date: _____

Required Attachments: (See Below)

READ AND SIGN BELOW

I have reviewed this application for accuracy before signing it and acknowledge all obligations and risks, including that I'll be liable to the Insurer if I declare bankruptcy or violate the "bad boy" covenants in my loan documents. As a condition precedent to coverage, I hereby state that the information contained herein is true, accurate and complete and no material facts have been omitted, misrepresented or misstated. I understand that any willful misrepresentations or inaccuracies in this application will void coverage. I understand that this is an application for insurance only and that completion and submission of this application does not bind coverage with any insurer. I also represent that the applicant is a commercial insured and the surplus lines broker procuring this surplus lines insurance has disclosed in writing that there may insurance available

from the admitted market that may provide greater protection with more regulatory oversight. The undersigned commercial insured has subsequently requested via this application in writing that the surplus line broker procure or place surplus insurance from a nonadmitted carrier.

Signature

Date

Title

Application – Continued

1. Loan Insurance Goals and Objectives

A loan insurance product to replace, or supplement, the borrower guarantee for developers, redevelopers, investors or anyone seeking typical commercial real estate financing that requires borrower recourse. The amount of the insurance is for a significant amount of the loan to allow a lender to accept the loan insurance as a supplement or substitute for the borrower’s guarantee.

2. Program Requirements

The insurance is used to insure 25% - 50%, of the loan amount for construction, development, acquisition, refinance or rehabilitation of projects that fit the Eligible Property criteria.

3. Eligible Properties

- Product Type - Multi-family, Industrial, Retail and Office. Possibly, Hotels or Marinas.
- Location – 1st and 2nd tier cities. Secondarily, heavy pre-leasing in 3rd tier cities.
- Equity Requirement – 20% - 40%.

4. Eligible Borrowers

Eligible borrowing entities include individuals, partnerships, joint ventures, corporations, government entities, and any combination thereof. Additionally, both non-profit and for profit borrowers are eligible.

5. Eligible Lenders

Eligible lenders include state and federally regulated banks, credit unions, savings and loans, savings banks, finance companies, life insurance companies, pension funds, mortgage bankers, public or private lending consortiums, etc. Government entities who offer loan funds are also eligible as lenders.

All lenders are subject to the approval of the Company, and the Company reserves the right to restrict the servicing of loans to lenders who have significant experience in the administration of income producing commercial real estate properties. Servicers are expected to have an experienced staff in addition to adequate delinquent loan monitoring, record keeping and control systems.

6. Eligible Loans

- Construction, development, acquisition, refinance, rehabilitation loans or permanent loans.
- Loan Sizes: Typically \$5 - \$50 million.
- Terms: Average 3 years – be co-terminus with initial loan term. Extensions available in 3 month increments for a fee.

7. Fees and Premiums

- Application Fee - \$7,500.00
- Premiums - See Separate Current Pricing Matrix.

Other Pricing Variables – Schedule Ratings (adjustments by underwriter).

1. Variable Deductibles – standard is 2.0% of the loan amount; however, if gap between loan desired and where insurance is acceptable, LGIS underwriter has the option to increase the deductible to bridge the gap or require more equity or borrower only retain that portion of loan to guarantee.
2. Sponsorship Experience.
3. Credit tenant for the entire project.
4. Future spreads of the above chart may vary in the future.

The upfront premium is based on the percentage indicated in the premium chart multiplied by the maximum loan amount and due at loan closing. If loan closing does not occur within three (3) months of the executed date of the Loan Insurance Commitment, then an extension fee will be due. The extension fee is equal to .15% of the amount due for every three-month extension, if granted at the sole discretion of the Company. A back-end fee and / or equity participation of the Insurer is also possible depending on each project.

Any taxes (other than taxes based on the Insurer’s net income), regulatory fees imposed by any government, and brokerage commissions in respect of amounts paid to the Insurer under this Policy will be the responsibility of the Borrower or Lender pursuant to this Agreement.

8. Billing and Information Statements

The lender will provide the Company with monthly billings statements and correspondence similar to the borrower. The Company may also request other information be provided on the status of the loan, including, but not limited to requests for copies of inspection reports, collection records, draw requests, copies of operating and financial statements (monthly, quarterly or annual as deemed appropriate). The Company may also require the borrower / lender to use its own monthly inspector, to save time and cost.

9. Underwriting Criteria

The underwriting criteria are to mirror the same requirements as any good lender’s requirements.

Evaluation Process: The Company will evaluate each request for Loan Insurance based upon each project’s individual merit. Factors consider include, but are not limited to, the following:

- Financial Soundness
- Project Feasibility
- Location
- Experience of borrower / management / development team
- Borrower’s Completion Guarantee and Standard Carve-Outs. (**NOTE**)

Minimum criteria’s will be established for:

- Ratios – LTV, LTC, DSCR, Debt Yield
- Reserves – Interest, Operating Deficits, TI & Commissions, etc.
- Contingencies – Hard and Soft Costs.

10. Loan Insurance Binder Letter

A lender shall make application to the Insurer, and if approved, a Loan Insurance Binder Letter will be issued stating the specific terms under which a Loan Insurance Policy will be available.

11. Lender Requirements

In General: The Company requires each lender to underwrite each loan in a thoughtful, thorough and accurate fashion, and apply the same level of expertise to the underwriting of loans submitted for Loan Insurance as they would to transactions without loan insurance.

Lenders are required to have experienced loan servicing and collection staff to insure adequate loan administration including loan accounting, account activity and collection logs. Lenders shall have written loan servicing / administration and collection policies and procedures. Additionally, lenders shall have adequate, experienced staff to carry out prudent loan servicing / monitoring and collection policies. (See “Defaults and Loan Delinquencies” section).

Upon the closing, the lender acknowledges:

- The loan is properly collateralized by the subject property and loan documentation includes enforcement loan documents: a promissory note, a trust deed or mortgage, assignment of leases and rents, security agreement, UCC filings, and other documents as appropriate (i.e. construction loan agreement for construction / rehabilitation loans and restrictive use agreements).
- The title to the property is good, marketable and free of liens; and lender is in possession or will be in possession of a title report indicating lender is in a first lien position.
- The property has adequate insurance (hazard, casualty, property, flood, wind, liability, performance, etc.).
- A replacement reserve account has been established, with deposits to be made monthly as disclosed to the Company in the final application or otherwise agreed upon. The lender or servicer may hold replacement reserves deposits.
- A contingency reserve account may be established, and if so, will be maintained according to the terms and conditions of the Loan Insurance Commitment.
- Company’s ability to cure and take over the loan in case of default.

Monthly Requirements

- **Property Inspection.** A representative of the lender will inspect the property each month and particularly prior to any draw request, if needed. The inspector will make copies of the inspection report with any draw request / paper work simultaneously to both lender and the Insurer.
- **Operating / Financial Statements.** The lender shall review the borrowing entity’s statements to be aware of any potential problems and make appropriate recommendations. The lender shall immediately notify the Company of any concerns in writing. However, in the event of a claim against the Loan Insurance, the lender should be prepared to provide documentation that the monthly inspections have been performed.

Construction Loan Requirements: Lenders shall follow prudent construction loan underwriting practices, and shall include a contingency category in the construction budget, and adequate funds to cover operating costs until the project reaches a stabilized break even level.

Lenders shall pay particular attention to the evaluation of the experience of the contractor / builder and of the borrower’s understanding of the construction process, construction lien laws, and understanding of construction loan processing and administration requirements. In cases where borrowers have limited or

no construction or construction loan experience, lenders shall make sure a member of the development team has the necessary experience – or avoid applying for the Loan Insurance.

The Insurer may, at its option, inspect the property before issuing a Loan Insurance policy or may include an inspection as a condition of the Loan Insurance.

The Insurance offer coverage for the following:

- Foreclosure losses from 25% - 50% of the unpaid principal loan balance (excluding accrued interest, fees and penalties) - not to exceed the percentage of coverage elected in conjunction with the original maximum loan balance.
- Foreclosure and property preservation costs up to 2% of the unpaid loan balance and allowable accrued interest.

12. Application Procedure

There is a **4 step application procedure** designed to expedite the approval process, and to provide for the reservation of Loan Insurance funds while loan requests are in the application process with a lender.

All Loan Insurance information and documents should be sent to the following address:

Loan Guarantee Insurance Services, LLC.
3455 Peachtree Road, 5th Floor
Atlanta, Georgia 30326
Attention: Application Section

Step 1 – Initial Company Contact and Project Discussion

The Insurer recommends that lenders and/or borrowers contact a Regional Advisor to the Director (RAD) to discuss the project on a preliminary basis prior to submission of a Preliminary Loan Insurance Application to insure that:

1. Sufficient Loan Insurance capacity is available for the subject property.
2. The project fits within the Insurer's guidelines for the Loan Insurance program.

Step 2 – Preliminary Loan Guarantee Application

Applicants should use this application form and should submit on their letterhead the following information:

1. Written request for the Loan Insurance, please include the dollar amount and percentage of the Loan Insurance request and the type of coverage requested.
2. Describe the project with as much detail as possible including such information as address, legal description of the property, type of project, existing or proposed, borrower information. Lender submission packages by experienced borrowers typically contain this information.
3. **The request should be signed by an authorized representative of the lender or borrower and be accompanied by the appropriate application fee.**

4. In addition to the above information the following attachments shall accompany the request:
 - a. A copy of executed loan application with lender.
 - b. Borrower's acknowledgment of the request for the Loan Insurance with borrower responsibilities and borrower's authorization for release of information (including credit reports, financial statements, appraisal, etc.) to the Company for review.
 - c. Project proforma - indicate source.
 - d. Historical operating statements for the past three (3) years – if applicable.
 - e. An estimate of the time necessary to process the loan request.
 - f. Other information if available in below Initial Underwriting Criteria / Requirements

Step 3 – Final Application Processing
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The final application stage begins when a lender has approved a loan request, subject to the receipt of a Loan Insurance binder. The lender shall submit the following information and documentation at this stage in addition to the Application form above:

1. A request on company letterhead indicating the final dollar amount of the loan, the percentage amount of the request and type of coverage requested.
2. Lender's loan commitment executed by an authorized representative of the lender and authorized representative of the borrower.
3. An original copy of the loan appraisal.
4. Copy of the lender's loan submission/underwriting package, which should include, but not be limited to, the following:
 - a. summary of loan request
 - b. all loan documents including terms, and conditions
 - c. copy of final lender application
 - d. discussion of loan request and project
 - e. proforma and discussion of same, loan to value ratio, debt service
 - f. cash flow analysis for a sufficient period to take the project to a stabilized occupancy
 - g. cost estimate of renovation/rehabilitation construction costs and fees
 - h. architectural plans and specifications
 - i. lender and borrower disclosure as to any related party transactions that affect the project
 - j. resume and other significant information on project management
 - k. description of the borrower's experience in developing/operating/managing such projects as applied for and the lender declaring that to the best of their knowledge all information is complete, accurate, and correct
 - l. for adjustable rate or variable rate loans, a rate sensitivity analysis showing the impact of interest rate calculations on debt service coverage
 - m. borrower's credit report and current financial statements.
 - n. See **Exhibit "C"** for typical Initial Underwriting Information

Documentation, with the exception of construction appraisals, shall not be more than 3 months old at the time the information is submitted at the final application stage. Construction appraisals shall be no more than 3 months old. Credit reports shall be no more than 3 months old and shall include a public record search.

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Step 4 - Issuance and Acceptance of Loan Insurance

The Insurer will review all of the data submitted and will evaluate each request for a Loan Insurance based upon its individual merit, including but not limited to its regional location, fulfillment of preference criteria, experience of borrower, and overall project viability.

Following review of the final application, with the Insurer's approval and availability of funds, a "Loan Insurance Binder" letter will be issued to the lender. **The lender and the borrower shall jointly execute the Binder Letter.** The Binder, with written Insurer approval, is transferable to another lender with Insurer's prior written approval, provided the transferee lender offers the same quality of services, loan terms and conditions as the transferor lender. The Binder Letter will disclose the amount of Loan Insurance approved, and any other conditions that may be required. The lender and the borrower have 14 calendar days to acknowledge receipt of the Binder Letter by executing a copy of the document, and returning it to the Company.

The Loan Insurance Binder shall expire on the same day as the lender's original loan commitment, or 30 days from the date of issuance, whichever comes first. If for any reason a lender needs to extend their loan commitment funding date, written approval from the Insurer to extend a Loan Guarantee or Insurance Binder shall be required. Lenders shall submit a written request to the Insurer, including an explanation of the circumstances surrounding the need for the extension request. A copy of the lender's written extension approval shall accompany the request.

Lenders need to be aware that a binder for the Loan Insurance was based upon the lender's loan commitment, and if any modifications have taken place, said modifications shall be brought to the attention of the Company. In the event the lender modifies the loan terms and/or conditions, without the prior written consent of the Company, the Loan Guarantee may become null and void.

A Policy will be issued upon receipt of payment in full of the initial Premium, which shall be paid to the Insurer at the closing of the loan.

Typical Initial Underwriting Criteria / Requirements

1. Initial Underwriting Information
 - a. Project Feasibility Outline
 - i. Outline of project configuration, amenities, and unit build out.
 - ii. Status of zoning, use or occupancy restrictions.
 - iii. Time Line of Project Events – closing, construction, pre-leasing, etc.
 - iv. Budget – review of all assumptions, including pre-leasing, etc.
 - v. Survey
 - vi. Soil Reports
 - vii. Review any credit enhancement features.
 - viii. General Contractor Qualifications.
 - ix. Construction Contract.
 - x. Plans and Specifications.
 - xi. Inspector (s)
 - xii. Zoning Letter.
 - xiii. Utility Certificate
 - xiv. Insurance Company – Named Additionally Insured.

- b. Borrower Information
 - i. Resume and past experience with construction projects.
 - ii. Borrower / sponsor financial statements.
 - iii. Equity / Investor Information
 - iv. History of any loan defaults, modifications, workouts, etc.

- c. Appraisal & Market Studies
 - i. Appraisal Value (land, as-complete and stabilized)
 - ii. Review of comparable projects – within submarket.
 - iii. Loan to cost ratio.
 - iv. Loan to Value (Appraised).
 - v. Borrower Equity
 - vi. Environmental Studies (Phase I and II if needed).

- d. Loan Terms (Basic)
 - i. Total Amount
 - ii. Amount advanced to date.
 - iii. Capital Stack
 - iv. Insurance Coverage during construction and thereafter (Names / Rating of provider).
 - v. Recourse to borrower – including “bad boy” and completion.
 - vi. Type of financing (pure construction, mini-perm, take-out, S-T permanent).
 - vii. Carry Risk – interest and other insurance.
 - viii. Interest Rate Risk – mitigation (interest rate swaps, hedges, caps.)

- e. Loan Structure (including any mitigants of construction risk)
 - i. Payment and / or Performance Bond – not likely.
 - ii. Completion Bond – doubt one is available.
 - iii. Fixed Price Construction Contract.
 - iv. Architect
 - v. Construction Manager
 - vi. Debt Guarantee?
 - vii. Completion Guarantee
 - viii. Retainage Factor.
 - ix. Funding Mechanics – Inspection / lien waiver / architect’s certificate/advancing mechanism.
 - x. Detailed sources and uses of proceeds (monthly and quarterly).
 - xi. Delay cost reserve – if pre-lease tenants have a penalty in their lease.
 - xii. Overage factors built into budget – Contingency (5%-10%).

- f. Take-out Risk
 - i. Take-out lender and senior unsecured lender (if applicable).
 - ii. Pre-sales (if applicable).
 - iii. Presales (as % of total)
 - iv. Presales History
 - v. Down payment required on presales (as a % of sales price).
 - vi. Release prices / mechanics.
 - vii. Pre-leasing activity

- viii. Pro-forma activity.
- ix. Pro-forma financials for as-built property.
- x. Credit tenant / build-to-suit.

Exhibit C
Insurance Binder

Loan Guarantee Insurance Services, LLC

3455 Peachtree Road, NE, Suite 500
Atlanta, Georgia 30326

Mailing Address:
3455 Peachtree Road, NE, Suite 500
Atlanta, Georgia 30326

Telephone: 404-995-7016

Insurance Binder

POLICY NUMBER:

NAMED INSURED:

NAMED INSURED ADDRESS:

INSURER: **United Specialty Insurance Company, a subsidiary of State National Insurance Company**

COVERAGE: Contract Liability

PERIOD OF INSURANCE: Effective Date: Expiration Date:

LOAN AMOUNT: \$

LIMITS OF LIABILITY: \$

COINSURANCE PERCENTAGE: ____ % of Loan Amount

RETENTION / DEDUCTIBLE: ____ % of Loan Amount

PREMIUM: ____ % of Loan Amount. Due at loan closing.

ENDORSEMENTS EFFECTIVE AT INCEPTION:

Authorized Signatory: _____

Date: _____

This binder of insurance outlines and represents the coverage afforded by **United Specialty Insurance Company, a subsidiary of State National Insurance Company**. It is valid and in force until replaced by a signed Policy of insurance.

Loan Guarantee Insurance Services, LLC

3455 Peachtree Road, NE, Suite 500
Atlanta, Georgia 30326

Mailing Address:
3455 Peachtree Road, NE, Suite 500
Atlanta, Georgia 30326

Telephone: 404-995-7016

INSURANCE BINDER TERMS AND CONDITIONS

LGIS Insurance Company, Inc (Insurer) commits to issue a policy of Contract Liability Insurance under its Form No:_____, (Insurer will provide a sample of the Policy Form upon request) as identified in this Binder to the Insured subject to the Conditions set forth below:

This Binder is a conditional insurance contract which is effective only upon closing of the loan identified in the preceding page of this Binder.

This binder will not be effective unless the identity of the Insured lender, Borrower and Borrower's property that secures in part the loan which is the subject of this insurance, and the Limits of Liability, applicable Coinsurance and Retention / Deductibles that apply, as well as the term of the Policy are set forth on the preceding page and the Binder has been signed by an officer of the Insurer.

This Binder is a contract to issue a policy of Contract Liability Insurance to the Insured based upon the Application on file with Insurer. If the closing fails to adhere to the terms of the loan represented in the Application this Binder shall be null and void.

In no event shall liability exceed that stated on the preceding page of this Binder. Such liability is subject to the insuring provisions, conditions, definitions and exclusions of the Form Number identified above, which are hereby incorporated by reference and are made a part of this Binder.

Upon proof of closing which adheres to the terms represented in the Application and accepted by Insurer, Insurer agrees to issue its Policy according to the terms of this Binder.

If the Requirements shown in this Binder have not been met within 30 days after the Binder Commitment Date shown on the previous page, Insurer's obligation under this Binder will end. Also, Insurer's obligation under this Binder will end when the Policy is issued and then Insurer's obligation to Insured will be under the Policy.