

# Attachment C

This page intentionally left blank.

# Agreement

This page intentionally left blank.



Before the Board of Supervisors in and for the County of Monterey, State of California

Agreement No: A-11132; A-11358; Resolution No.08-099

- a. Authorize the Purchasing Manager for Monterey County to execute an agreement with Accela, Inc. for professional services to implement, host, and maintain the Accela Automation software product for land use permits, information management and customer service functions in an amount not to exceed \$1,791,726.95 for the term March 31, 2008 through December 31, 2012 and to execute up to two one year extensions of this Agreement;
b. Authorize the Purchasing Manager for Monterey County to execute an Agreement with Government Capital Corporation, a Texas corporation, for the closed end lease-purchase of the Accela Automation software product in an amount not to exceed \$1,791,726.95 for the term March 31, 2008 through December 31, 2012; and
c. Adopt the attached resolution to create Article XXVI (Special Land Use Fees) of the County Master Fee Resolution to add a Six Percent Information Systems Technology surcharge fee to all fees for Land Use Applications, Construction Permits and Code Enforcement Activities in the Building Services Department and Planning Department for the period from July 1, 2008 through June 30, 2013.
(Agreement - PD080216/County Master Fee Resolution, County-wide)

Upon motion of Supervisor Potter, seconded by Supervisor Salinas, and carried by those members present, the Board of Supervisors hereby:

- a. Authorized the Purchasing Manager for Monterey County to execute an agreement with Accela, Inc. (A-11132) for professional services to implement, host, and maintain the Accela Automation software product for land use permits, information management and customer service functions in an amount not to exceed \$1,791,726.95 for the term March 31, 2008 through December 31, 2012 and to execute up to two one year extensions of this Agreement;
b. Authorized the Purchasing Manager for Monterey County to execute an Agreement with Government Capital Corporation, (A-11358) a Texas corporation, for the closed end lease-purchase of the Accela Automation software product in an amount not to exceed \$1,791,726.95 for the term March 31, 2008 through December 31, 2012; and
c. Adopted the attached resolution No. 08-099 to create Article XXVI (Special Land Use Fees) of the County Master Fee Resolution to add a Six Percent Information Systems Technology surcharge fee to all fees for Land Use Applications, Construction Permits and Code Enforcement Activities in the Building Services Department and Planning Department for the period from July 1, 2008 through June 30, 2013.
(Agreement - PD080216/County Master Fee Resolution, County-wide)

PASSED AND ADOPTED this 25th day of March, 2008, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Mettee-McCutchon, Potter
NOES: None
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 74 for the meeting on March 25, 2008.

Dated: March 25, 2008
Revised 05-02-13

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

**AGREEMENT TO PROVIDE THE IMPLEMENTATION OF THE ACCELA  
AUTOMATION SOFTWARE FOR THE COUNTY OF MONTEREY  
RESOURCE MANAGEMENT AGENCY**

This AGREEMENT is made and entered into by and between the County of Monterey, a political subdivision of the State of California, hereinafter referred to as "County", and ACCELA, INC., hereinafter referred to as "CONTRACTOR."

**PERFORMANCE OF THE AGREEMENT**

The intent of this AGREEMENT is to summarize the contractual obligations of the parties. The component parts of this AGREEMENT include the following:

- Scope of Services for Accela Automation Implementation (Attachment A)
- Hosting Document (Attachment B)
- Services Document (Attachment C)
- License Document (Attachment D)
- Maintenance Agreement (Attachment E)
- Certificate of Insurance
- Additional Insured Endorsements

Work required by one of the above-referenced contract documents and not by others shall be done as if required by all.

**1.0 SCOPE OF SERVICE**

General scope of service is for CONTRACTOR to provide County professional services to implement, host, and maintain the software products listed within the License Document (Attachment D), executed contemporaneously by the parties.

**2.0 TERM OF AGREEMENT**

- 2.1 The initial term shall commence March 31, 2008 through and including December 31, 2012. County may elect to extend this AGREEMENT for two (2) additional one (1) year periods. The renewal rate for each such additional term of maintenance will be calculated as twenty percent (20%) of CONTRACTOR's then-current list license fees for the maintained software products. The renewal rate for each such additional term of hosting will be calculated as not more than 103.5% of the prior term's annual hosting fees.

### **3.0 TERMINATION OF THE AGREEMENT**

- 3.1 Notwithstanding anything contained in this AGREEMENT to the contrary, if insufficient funds are appropriated, or funds are otherwise unavailable in the budget for County for any reason whatsoever in any fiscal year, for payments due under this AGREEMENT, County will immediately notify CONTRACTOR of such occurrence, and this AGREEMENT shall terminate after the last day during the fiscal year for which appropriations shall have been budgeted for County or are otherwise available for payments. To the extent permitted by law, this provision will not be construed so as to permit County to terminate this AGREEMENT in order to acquire or lease any other equipment or to allocate funds directly or indirectly to perform the same application and in the same manner for which the equipment is intended.
- 3.2 Either party may terminate this AGREEMENT if the other party materially breaches this AGREEMENT and, after receiving a written notice describing the circumstances of the default, fails to correct the breach within thirty (30) calendar days.
- 3.3 Upon any termination or expiration of the AGREEMENT, all services are cancelled and all data shall be returned to County as provided in Section 6.2, upon such termination or expiration, all rights granted to the County are cancelled and revert to CONTRACTOR.

### **4.0 COMPENSATION AND PAYMENTS**

- 4.1 It is mutually understood and agreed by both parties that CONTRACTOR shall be compensated under the AGREEMENT in accordance with the following:
  - 4.1.1 Exhibit A within Attachment C
  - 4.1.2 Exhibit A within Attachment D
  - 4.1.3 Exhibit A within Attachment E
- 4.2 The total of this AGREEMENT shall not exceed \$1,791,726.95 during the term of the AGREEMENT.
- 4.3 The Municipal Technology Lease-Purchase AGREEMENT, Appendix I, is a separate item to be executed simultaneously with this AGREEMENT between County and Government Capital Corporation. In the event that this AGREEMENT is properly terminated by County in accordance with Section 3.2 above, CONTRACTOR will be liable to County for any remaining installment payments owed by County to Government Capital Corporation pursuant to the terms of the separate finance AGREEMENT between County and Government Capital Corporation.
- 4.4 Invoice amounts shall be billed directly to the ordering department.

- 4.5 CONTRACTOR shall submit an invoice periodically or at the completion of services, but in any event, not later than thirty (30) calendar days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this AGREEMENT, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within thirty (30) calendar days of receiving the certified invoice.

## **5.0 COUNTY TRAVEL REIMBURSEMENT POLICY**

County agrees to reimburse CONTRACTOR for reasonable travel incurred by CONTRACTOR in the performance of the scope of work outlined within this AGREEMENT in compliance with the established County Travel Policy.

## **6.0 COUNTY PROPERTY**

- 6.1 County warrants that it exclusively owns its data and that it has both the right and the authority to provide such data to CONTRACTOR. County retains full ownership of its data and grants to CONTRACTOR a limited, nonexclusive, nontransferable license to use said data only to perform CONTRACTOR's obligations in accordance with the terms and conditions of this AGREEMENT.
- 6.2 Within thirty (30) calendar days following termination or expiration of this AGREEMENT, County may request that CONTRACTOR provide a complete copy of County's data, as such may be updated or modified by County's use of the Hosted Applications, to County in a machine-readable format.

## **7.0 CONFIDENTIALITY**

- 7.1 Definitions: "Disclosing Party" and "Recipient" refer respectively to the party which discloses information and the party to which information is disclosed in a given AGREEMENT. Either CONTRACTOR or County may be deemed Disclosing Party or Recipient depending on the circumstances of a particular communication or transfer of information. "Confidential Information" means all disclosed information relating in whole or in part to non-public data, proprietary data compilations, computer source codes, compiled or object codes, scripted programming statements, byte codes, or data codes, entity-relation or workflow diagrams, financial records or information, client records or information, organizational or personnel information, business plans, or works-in-progress, even where such works, when completed, would not necessarily comprise Confidential Information. The foregoing listing is not intended by the Parties to be comprehensive, and any information which Disclosing Party marks or otherwise designates as "Confidential" or "Proprietary" will be deemed and treated as Confidential Information. Information which qualifies as "Confidential Information" may be

presented to Recipient in oral, written, graphic, and/or machine-readable formats. Regardless of presentation format, such information will be deemed and treated as Confidential Information. Notwithstanding, the following specific classes of information are not "Confidential Information" within the meaning of this Section:

- a) information which is in Recipient's possession prior to disclosure by Disclosing Party;
- b) information which is available to Recipient from a third party without violation of this AGREEMENT or Disclosing Party's intellectual property rights;
- c) information disclosed pursuant to Subsection 7.4 below;
- d) information which is in the public domain at the time of disclosure by Disclosing Party, or which enters the public domain from a source other than Recipient after disclosure by Disclosing Party;

7.2 Confidentiality Term: The obligations described in this Section commence on the Effective Date and will continue until two (2) years following any termination or expiration of this AGREEMENT ("Confidentiality Term").

7.3 Confidentiality Obligations: During the Confidentiality Term, Recipient will protect the confidentiality of Confidential Information using the same degree of care that it uses to protect its own information of similar importance, but will in any case use no less than a reasonable degree of care to protect Confidential Information. Recipient will not directly or indirectly disclose Confidential Information or any part thereof to any third party without Disclosing Party's advance express written authorization to do so. Recipient may disclose Confidential Information only to its employees or agents under its control and direction in the normal course of its business and only on a need-to-know basis. In responding to a request for Confidential Information, Recipient will cooperate with Disclosing Party, in a timely fashion and in a manner not inconsistent with applicable laws, to protect the Confidential Information to the fullest extent possible.

7.4 Publicity: During the term of this AGREEMENT, including the term of any amendment hereto, CONTRACTOR may publicly disclose its ongoing business relationship with County. Such disclosures may indicate County's identity and the CONTRACTOR product(s) and services provided or contracted to be provided to County, but may not expressly or impliedly indicate County's endorsement of CONTRACTOR's products or services without County's prior written authorization.

## 8.0 OTHER TERMS AND CONDITIONS

8.1 County Obligations As required, County will provide CONTRACTOR with appropriate access to County's data systems and other resources. If Security restrictions impair such access, County acknowledges that some maintenance services hereunder may not be provided to County.

8.2 Limitation of Liability CONTRACTOR provides no warranty whatsoever for any third-party hardware or software products. Third-party applications which utilize or rely upon the Software may be adversely affected by remedial or other actions performed pursuant to this AGREEMENT; CONTRACTOR bears no liability for and has no obligation to

remedy such effects. Except as set forth herein, CONTRACTOR provides all Software and Services "as is" without express or implied warranty of any kind regarding the character, function, capabilities, or appropriateness of such services or deliverables. To the extent not offset by its insurance coverage and to the maximum extent permitted by applicable laws, in no event will CONTRACTOR's cumulative liability for any general, incidental, special, compensatory, or punitive damages whatsoever suffered by County or any other person or entity exceed the fees paid to CONTRACTOR by County during the twelve (12) calendar months immediately preceding the circumstances which give rise to such claim(s) of liability, even if CONTRACTOR or its agents have been advised of the possibility of such damages.

- 8.3 Force Majeure If either party is delayed in its performance of any obligation under this AGREEMENT due to causes or effects beyond its control, that party will give timely notice to the other party and will act in good faith to resume performance as soon as practicable.
- 8.4 Assignment CONTRACTOR may assign its rights and obligations hereunder for purposes of financing or pursuant to corporate transactions involving the sale of all or substantially all of its stock or assets. CONTRACTOR may subcontract with qualified third parties to provide portions of the Maintenance Services described hereinabove.
- 8.5 Survival The following provisions will survive the termination or expiration of this AGREEMENT: Section 4 and all subsections thereof, as to County's obligation to pay any fees accrued or due at the time of termination or expiration; Section 7 and all subsections thereof with the exception of Subsection 7.4; and Section 8 and all subsections thereof with the exceptions of Subsections 8.1 and 8.3.
- 8.6 Alternate Terms Disclaimed The parties expressly disclaim any alternate terms and conditions accompanying drafts and/or purchase orders issued by County.

## 9.0 NON-DISCLOSURE

- 9.1 Disclosure. Except to the extent necessary as contemplated by this Agreement, each party agrees not to disclose any Confidential Information to any person and agrees to use its best efforts to prevent inadvertent disclosure of any Confidential Information to any person. Without limiting the generality of the preceding sentence, each party agrees to treat the Confidential Information of the other party with at least the degree of care that such party treats similar information of its own. Each party may disclose such Confidential Information to a court or other governmental authority to the extent that such disclosure is required by governmental order or by law; provided that the receiving party shall (i) notify the disclosing party in writing of such required disclosure as soon as reasonably possible prior to such disclosure, specifying in detail the reasons why such disclosure is required, (ii) use its commercially reasonable efforts at its expense to cause such disclosed Confidential Information to be treated by such governmental authority as trade secrets and as confidential, and (iii) use its commercially reasonable efforts at its expense to obtain such other protective orders and protections with respect thereto as the disclosing party may reasonably request.

- 9.2 Use. Each party agrees not to use any Confidential Information for any purpose whatsoever except to the extent necessary as contemplated by this Agreement. Each party agrees not to disclose the Confidential Information to any of its Representatives except those who are required to have the Confidential Information in connection with such purpose and then only if such Representative is either subject to a written confidentiality agreement that would cover the confidential treatment of the Confidential Information or otherwise subject to fiduciary obligations of confidentiality that would cover the confidential treatment of the Confidential Information.
- 9.3 Protective Orders. If CONTRACTOR is requested to disclose any Information, it will promptly notify the County, to permit the County to seek a protective order or take other appropriate action. If, in the absence of a protective order, CONTRACTOR, in the opinion of its counsel, is compelled as a matter of law to disclose the Information, it may disclose to the party compelling the disclosure only the part of the Information as is required by law to be disclosed (in which case, prior to such disclosure, County will advise and consult with CONTRACTOR's and its counsel as to such disclosure and the nature and wording of such disclosure, provided such consultation does not unreasonably delay CONTRACTOR in disclosing such Information).
- 9.4 Termination of Confidentiality Obligations. The obligations of this Section 4 shall terminate with respect to any particular portion of the Confidential Information when receiving party can prove by appropriate documentation that such Confidential Information (a) was previously known to the receiving party as shown by the receiving party's files at the time of disclosure thereof, (b) was already in the public domain at the time of the disclosure thereof, or (c) entered the public domain through no action of the receiving party subsequent to the time of the disclosure thereof.
- 9.5 No Disclosure/Advertising. Neither party hereto shall in any way or in any form disclose, publicize or advertise in any manner the discussions that give rise to this Agreement or the discussions or negotiations covered by this Agreement without the prior written consent of the other party, except as the discussions or negotiations may be obligated to be disclosed under order of a court of competent jurisdiction or a valid administrative or congressional subpoena or pursuant to a proper demand under the applicable state or federal law.

## 10.0 INDEMNIFICATION

Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this AGREEMENT by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this AGREEMENT to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor is obligated to indemnify, defend and hold harmless the County under this AGREEMENT.

## 11.0 INSURANCE

### 11.1 Evidence of Coverage:

Prior to commencement of this AGREEMENT, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this AGREEMENT until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

### 11.2 Qualifying Insurers:

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

### 11.3 Insurance Coverage Requirements: Without limiting CONTRACTOR'S duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this AGREEMENT a policy or policies of insurance with the following minimum limits of liability:

11.3.1 Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

11.3.2 Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this AGREEMENT, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

11.3.3 Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this AGREEMENT, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

11.3.4 Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to



cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this AGREEMENT, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this AGREEMENT.

**11.4 Other Insurance Requirements:**

All insurance required by this AGREEMENT shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this AGREEMENT, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this AGREEMENT.

11.5 Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this AGREEMENT, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

11.6 Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

11.7 Prior to the execution of this AGREEMENT by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this AGREEMENT. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this AGREEMENT, which shall continue in full force and effect.

- 11.8 CONTRACTOR shall at all times during the term of this AGREEMENT maintain in force the insurance coverage required under this AGREEMENT and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this AGREEMENT, which entitles County, at its sole discretion, to terminate this AGREEMENT immediately.

## 12. NOTICES

Notices required to be given to the respective parties under this AGREEMENT shall be deemed given by any of the following means: (1) when personally delivered to the County's contract administrator or to CONTRACTOR'S responsible officer; (2) when personally delivered to the party's principle place of business during normal business hours, by leaving notice with any person apparently in charge of the office and advising such person of the import and contents of the notice; (3) 24 hours after the notice is transmitted by FAX machine to the other party, at the party's FAX number specified pursuant to this AGREEMENT, provided that the party giving notice by FAX must promptly confirm receipt of the FAX by telephone to the receiving party's office; or, (4) three (3) days after the notice is deposited in the U. S. mail with first class or better postage fully prepaid, addressed to the party as indicated below.

Notices mailed or faxed to the parties shall be addressed as follows:

### TO THE COUNTY:

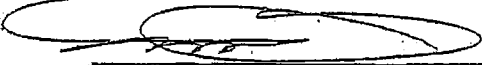
Contracts/Purchasing Manager  
County of Monterey, Contracts/Purchasing Department  
168 W. Alisal Street, 3<sup>rd</sup> Floor  
Salinas, CA 93901-2439  
Tel. No.: (831) 755-4990 FAX No.: (831) 755-4969

### TO THE CONTRACTOR:

Contracts Administration  
ACCELA, INC.  
2633 Camino Ramon, Suite 120  
Bishop Ranch 3  
San Ramon, CA 94583  
Tel. No.(925) 659-3200 FAX No.(925) 407-2722  
contractsadmin@accela.com

IN WITNESS WHEREOF, the County and CONTRACTOR execute this AGREEMENT as follows:

MONTEREY COUNTY



Contracts/Purchasing Manager

Dated: 3-25-08

Approved as to Fiscal Provisions:



Auditor/Controller

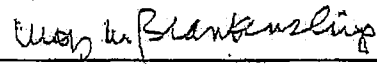
Dated: 3-25-08

Approved as to Liability Provisions:

Risk Management

Dated:

Approved as to Form:



Assistant County Counsel

Dated: 3/25/08

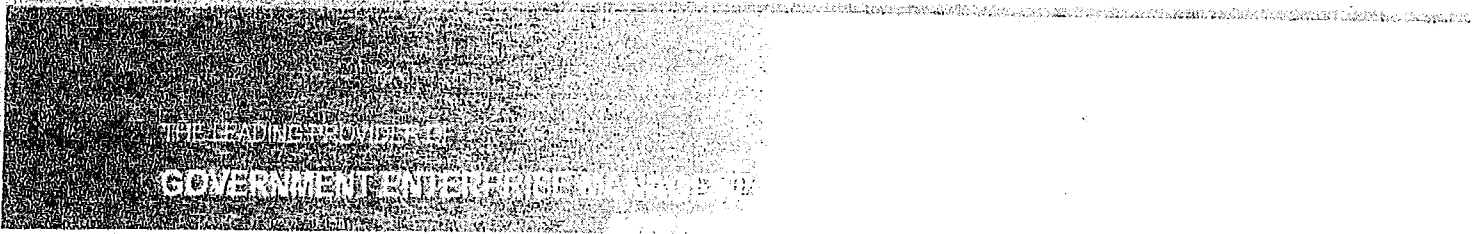
CONTRACTOR

By: 

Company Representative

MICHAEL E. HARRISON - SVP OF SALES  
Printed Name and Title

Dated: 3/25/08



# Scope of Work for Accela Automation Implementation

Monterey County, CA

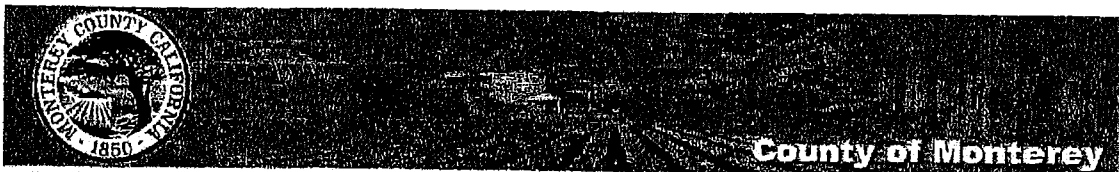


TABLE OF CONTENTS

ACCELA AUTOMATION IMPLEMENTATION PROCESS ..... 3

SCOPE OF SERVICES ..... 3

PROJECT INITIATION 3

INSTALLATION 4

PROJECT MANAGEMENT 4

BUSINESS ANALYSIS 4

CONFIGURATION 5

BUILD 6

TRAINING 9

PRODUCTION Go LIVE SUPPORT 10

KEY ASSUMPTIONS AND EXCEPTIONS 10

PROJECT RESOURCES AND LOCATION OF WORK ..... 10

WORK LOCATION 10

ACCELA AND TRUEPOINT RESOURCES 10

MONTEREY COUNTY RESOURCES 11

EXPENSES 12

INVOICING AND PAYMENT TERMS 13

PROPOSED PLOJECT TIMELINE 13

ATTACHMENT A - DELIVERABLES ACCEPTANCE FORM ..... 15

APPENDIX B: CHANGE ORDER FROM ..... 16

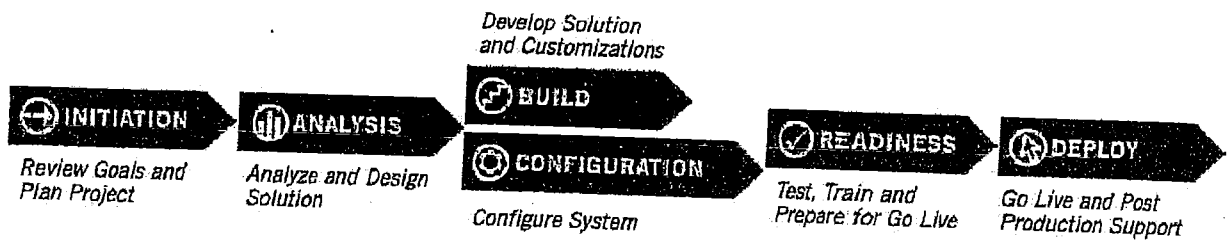
ERROR! BOOKMARK NOT DEFINED.

## ACCELA AUTOMATION IMPLEMENTATION PROCESS

Accela and TruePoint are committed not only to providing a superior software solution for Monterey County's current and future needs, but also to assist the County in the successful implementation and deployment of the solution. Accela/TruePoint has over 25 years of providing permitting systems for the public sector and is the only vendor in this market to have successfully installed and deployed a true 3-tier web-based solution.

TruePoint will work with County staff to optimize Accela's portfolio of software, and customer experience to enable the County to successfully deploy its Accela Automation solution and meet its functionality, timing and cost requirements.

The following diagram depicts the implementation process, broken down into six project stages:



## SCOPE OF SERVICES

TruePoint proposes a joint team approach to collaboratively configure and implement the Accela Automation software. The system will be implemented using a combination of resources from Monterey County and TruePoint with some specialty services provided by Accela. This will ensure that the County is prepared to maintain the system going forward by having hands on experience during the configuration. The following sections describe the proposed implementation services for Monterey County in detail. The project will include the following modules and add-on products:

Implementation of Accela Automation Modules for:

- Building
- Planning
- Code Enforcement
- Business License (1 Business Process)
- Services Request (1 Business Process)

Implementation of the following Accela Add-On products:

- Accela GIS
- Accela Wireless
- Accela Citizen Access
- Accela IVR

## PROJECT INITIATION

During the Project Initiation stage, TruePoint will create a project plan with a critical path summary, as well as review, in conjunction with Monterey County project staff, all project milestones and deliverables that detail the effort

described for this engagement. The draft of the project plan will be incorporated into a Master Project Plan that will be maintained by TruePoint and Monterey County.

A Project Kickoff meeting will also take place during this project stage.

Deliverable: Kickoff Meeting and Project Plan. Not to exceed 32 hours of services from the Project Management cost category

## INSTALLATION

Monterey County has chosen to utilize the Accela Hosted environment for the use of Accela Automation. Accela will make available a "Development" and "Reference" installation on the Accela support site, and make a "Production" installation available on the Accela production servers. Accela and TruePoint staff will validate the proper installation and configuration of the Accela Automation product in the Accela-hosted environment.

Accela and TruePoint will perform the following tasks:

- Perform a remote system check of the installation.
- Create the "Development" and "Reference" agencies on the Accela support site
- Create a "Production" agency on the Accela support site
- Demonstrate that the Accela Automation Modules are operational from the Internet.

Acceptance Criteria: The System is availability on the Accela-hosted development and production environments. There are 16 hours allocated for the installation/setup tasks.

## PROJECT MANAGEMENT

TruePoint will perform project management services needed to plan and monitor execution of the project in accordance with deliverables outlined in the Scope of Services. To support the implementation of the Accela Automation solution at Monterey County, TruePoint will provide 200 hours of Project Management services throughout the project. (32 hours at project initiation and 168 additional hours over the duration) Generally these services include the following:

- Project Initiation
- Change order management
- Issue log management and escalation
- Resources management
- Meetings management

Project Management tasks will be shared between the TruePoint Project Manager and Monterey County Project Manager. A project plan will be maintained and monitored using Microsoft Project.

## BUSINESS ANALYSIS

During the Business Analysis stage, TruePoint will conduct interviews with key representatives from Monterey County offices involved in the permitting processes for each department. The business analysis will be confined to the current permitting processes in the Permits Plus system. TruePoint will make recommendation where appropriate on ways to make the current business processes work efficiently with Accela Automation.

During these business analysis workshops TruePoint will:

- Review and chart each business process as a basis for configuration in Accela Automation's workflow tool

- Review and document intake requirements, forms, and data fields for each permit/business process type
- Collect and document output requirements (documents/letters/reports).
- Collect and document fees, fee schedules, and collection procedures for each permit/business process type
- Collect and document all required inspections and inspection result options for each permit type

True Point understands that the current fee structure will potentially change in the next 6 months and will work with the County during the project initiation phase to find out when the new fee structures will take place and adjust the timeline accordingly if it does affect the overall project timeline.

**Deliverable:** The deliverable from the Business Analysis will be Accela Automation system configuration document. This project task is expected to not exceed 380 hours from the Business Analysis cost category.

Monterey County Responsibilities:

- Arrange for the availability of appropriate technical computing environment and system analysts to support the Configuration Analysis activities.
- Make available the appropriate County key users and content experts to participate in the Configuration Analysis and verify the accuracy of the documented workflows, input/output formats, and data elements.
- Provide information and data in the formats specified that will be needed for system setup and application configuration.

Acceptance Criteria: The Configuration Analysis Document will be accepted when TruePoint and the County agree that each business process has been appropriately documented in the configuration document. Acceptance must be completed prior to beginning System Configuration.

## CONFIGURATION

TruePoint will provide professional services to configure Accela Automation in accordance with requirements established and agreed upon during the System Configuration Analysis effort. Based on the System Configuration Document, TruePoint will configure the CAP (Case/Application/Permit) types in Accela Automation.

Each CAP type developed will include all associated workflows, fees, inspections, conditions and other key system features in support of Monterey County requirements. Specific CAP types to be developed will be determined during the System Configuration Analysis.

The deliverable from the System Configuration will be Accela Automation system configured in accordance with the System Configuration Document specifications. This project task is expected to not exceed 700 hours from the configuration cost category.

Monterey County Responsibilities:

- Identify and make available staff members who will work with TruePoint through this process and take responsibility for providing information for and validating the CAP types to be configured.
- Arrange the time for qualified decision makers and business experts for the design review/configuration analysis sessions that are critical to project success.
- Unit testing and final system testing of the configuration.

Acceptance Criteria: The County will test the configured system for purposes of validating the CAP types configured. The CAPs will be accepted when TruePoint and the County agree that all requirements, objectives, and scope have been appropriately defined in each CAP type.



## **BUILD**

The Build stage includes development of an APO (Address, Parcel and Owner) interface from the Assessor, Permits Plus conversion, development of Accela Event Scripts to automate business processes, and the installation and configuration of Accela add-on products.

### **APO Interface**

Definition: Based on a review of Monterey County's requirements, TruePoint will deliver an interface between the County Assessor and the Accela Automation system to populate Address, Parcel and Owner (APO) information. This project task is expected to not exceed 40 hours from the APO Interface cost category.

- The county Assessor will create a flat file in the standard Accela format for APO data, which TruePoint will use to update the Accela reference data. This process can be set up to run at whatever frequency the county determines is appropriate.
- In addition to the standard data fields the county may choose to add additional parcel attributes to the parcel data in the Land management system. These will be defined as part of the business analysis process.

### Monterey County Responsibilities:

- Allocate the time for qualified business and technical experts for the interface requirements sessions that are critical to the project success.
- Provide problem-free data to the format specified by TruePoint including an accurate data dictionary for the data set.
- Assist in the interface/data mapping process.
- Ensure that the data populates successfully according to the interface requirements document.
- Allocate the time for qualified personnel to test the interface for acceptance

Acceptance Criteria: The APO interface will be accepted when the County agrees that all data is being created or updated successfully.

### **Event Manager Scripts Development**

TruePoint will develop Event Scripts using Accela Automation's integral Event Manager scripting functionality to automate specific business rules/processes within Accela Automation. Examples of processes to be automated with scripts include: business inspection assignment, or automatic fee creation. This project task is expected to not exceed 120 hours from the Event Script cost category. Should Monterey County desire TruePoint to develop additional scripts beyond 120 hours included in this Statement of Work, TruePoint will provide the required professional services following the execution of the Change Order process as described below.

### Monterey County Responsibilities:

- Identify and make available staff members who will work with TruePoint through this process and take responsibility for providing information for and validating the Event Manager Scripts to be developed.
- Arrange the time for qualified decision makers and business experts for the design review/configuration analysis sessions that are critical to project success.

Acceptance Criteria: The successful demonstration of the developed scripts within the Accela Automation hosted system.

### **Permits Plus Conversion**

The conversion of historic data from the existing database is one of the most significant aspects of a project when migrating from one system to another. The required data mapping effort will be conducted by Monterey County personnel with assistance from TruePoint. Once the data mapping has been defined, TruePoint will ask that a representative of the County sign off on the data maps. TruePoint will load the data based upon the data maps specification provided by the County using the standard Permits Plus to Accela Automation tool. TruePoint will be responsible for the data conversion programs to load data to the Accela Automation database in the Support and Production Environment. TruePoint will provide up to 240 hours of data migration efforts for the conversion process from the Permits Plus conversion cost category.

TruePoint will provide the County with the following data migrations/conversions in support of the Accela Automation upgrade.

- Permits Plus history data migration: TruePoint will assist the County in the conversion of all existing permit and case records from Permits Plus to the Accela Automation database. This conversion effort includes data mapping, script development for the conversion, data testing and validation, and assistance with final data migration/conversion.
- Permits Plus office link files: The standard Accela conversion tool also allows for the conversion of Permits Plus office link files to Accela ADS.

Acceptance Criteria: The successful conversion of the Permits Plus data into the Accela Automation hosted system.

#### **Reports Development**

TruePoint will provide the County up to 120 hours of custom report development assistance for documents/letters/reports that are identified by the County as required for the new system. This development will be done using Crystal Reports. These custom reports will be deployed in the Report Manager for use within Accela Automation. The Accela Report Manager integration requires Crystal Reports XI Server, which allows an organization to publish reports to the web.

#### Monterey County Responsibilities:

- Make available the appropriate key users and content experts to participate in the report specification development and validation activities.
- Provide information and data in the formats specified that will be needed for the report configurations.
- Provide Crystal Report expert(s) to work with TruePoint on the reports.
- Crystal Report XI Server is not needed with the Accela Hosted Solution.
- Crystal Reports XI will need to be purchased by the County if reports are developed in-house.

Prior to the development of a report Monterey will approve a report design specification document that will be created jointly by the County and TruePoint. The approved document will be used as a basis for determining completion and approval of the report.

#### **Add-On Product - Accela GIS**

Accela/TruePoint will install and configure Accela GIS to link and leverage existing Monterey County GIS information, including assistance with establishing the map service to be used in conjunction with Accela GIS and configuration one dynamic theme as defined by Monterey County. This project task is expected to not exceed 48 hours from the GIS cost category.

#### GIS Requirements:

- Accela GIS will work with either shapefiles or SDE.
- The ArcIMS map service format is \*.AXL

- Accela does not support MXD files at this time
- Accela will support ArcIMS 9.2 or 9.1
- To enable geocoding, one of the layers in the \*.AXL file must be a geocodable street centerline file
- The GIS installation includes importing Parcel IDs into the Automation DB. Therefore, a text file dump with all parcel IDs from the Parcels layer is required.

Monterey County Responsibilities:

- Arrange for the availability of appropriate people for the system installation, setup, testing, and quality assurance throughout the setup process
- Provide people and physical resources based on the dates outlined in the project schedule.
- Provide information and data in the formats specified by Accela that will be needed for the GIS implementation.

Acceptance Criteria: Acceptance will require the successful demonstration of the GIS module within the Accela-hosted system to Monterey County.

**Add-On Product - Accela Citizen Access**

Accela/TruePoint will deliver to Monterey County users the specifications and application software for the Accela Citizen Access add-on module. This project task is expected to not exceed 80 hours from the ACA cost category.

To support these activities Accela/TruePoint will provide the following services:

- Install Accela Citizen Access
- Create configuration specification for application and console views
- Create three on-line processes to research permits; schedule an inspection; and apply for a permit
- Create three (3) console views into the database: Citizen/Anonymous Access, Contractor and Management

Monterey County Responsibilities:

- Arrange for the availability of appropriate people for the system installation, setup, testing, and quality assurance throughout the setup process
- Procure appropriate online merchant account for processing of online credit card payments.
- Provide people and physical resources based on the dates outlined in the project schedule.
- Provide information on the services and selected CAPs that the County desires to offer via Accela Citizen Access.

Acceptance Criteria: Acceptance will require the successful demonstration of the of the implemented module within the Accela-hosted system by Monterey County along with written sign-off from the County

**Add-On Product - Accela Wireless**

Accela/TruePoint will install and configure Accela Wireless application. As part of this deliverable Accela/TruePoint will perform the configuration tasks required to ensure Accela Wireless interfaces with Accela Automation in both a support and production environment. This project task is expected to not exceed 24 hours from the Wireless cost category.

Accela Wireless will enable a County inspector to perform the following activities:

- Result inspections in either store/forward or wireless mode for Application Types
- Print violation reports in the field

To support these activities Accela/TruePoint will provide the following services:

- Install Accela Wireless
- Assist in the configuration of the system for use in conjunction with the County's selected field printing device and develop 1 custom reports for printing in the field.

Monterey County Responsibilities:

- Arrange for the availability of appropriate people for the system installation, setup, testing, and quality assurance throughout the setup process
- Order and procure necessary hardware, non-Accela systems software, and networking infrastructure as specified by Accela.
- Provide people and physical resources based on the dates outlined in the project schedule.

Acceptance Criteria: Acceptance will require the successful demonstration of the of the implemented module within the Accela-hosted system to Monterey County along with written sign-off from the County

**Add-On Product - Accela IVR**

Accela/TruePoint will deliver to Monterey County users the specifications and application software for the Accela IVR add-on module. This project task is expected to not exceed 55 hours from the IVR cost category.

To support these activities Accela/TruePoint will provide the following services:

- Install Accela IVR
- Create configuration specification for IVR Inspection codes and IVR call tree
- Setup Accela IVR using Accela's standard IVR call tree configuration

Monterey County Responsibilities:

- Arrange for the availability of appropriate people for the system installation, setup, testing, and quality assurance throughout the setup process
- Provide people and physical resources based on the dates outlined in the project schedule.
- Provide information on the inspections that the County desires to offer to be scheduled via Accela IVR.
- Internal hardware to support Accela IVR is not needed with the Accela Hosted Solution.

Acceptance Criteria: Acceptance will require the successful demonstration of the of the implemented module within the Accela-hosted system by Monterey County along with written sign-off from the County

## TRAINING

**Train the Trainer Training:** TruePoint will provide 16 days of on-site and/or remote WebEx training sessions for the following areas: Daily Activities, Administrator, Event Scripting, Accela GIS, Accela Citizen Access, and Accela Wireless. Training hours will be distributed among the training categories as mutually agreed by TruePoint and Monterey County project stakeholders. Training will be train-the-trainer or actual administrator training depending on the class. The Monterey County Project Manager will identify those individuals to be trained in each of the above categories. These training classes will be scheduled throughout the implementation process as appropriate.

Accela and Monterey County Responsibilities:

- Properly select and prepare the power-users who will be participating in the training and subsequently training end users.
- Arrange the time and qualified people for the training who are critical to the project success.

Acceptance Criteria: This deliverable will be accepted when 16 day of training is completed.

## PRODUCTION GO LIVE SUPPORT

Production Go Live is defined as the first production use of the system. TruePoint will be on site during the cutover process and provide up to 40 hours of support for the Monterey County end users and project team.

## KEY ASSUMPTIONS AND EXCEPTIONS

The following assumptions and exceptions apply to this project:

- Monterey County, TruePoint and Accela will be able to commit the time and resources necessary to participate in, and contribute to project activities
- Monterey County and TruePoint will use a collaborative approach to ensure implementation success
- Monterey County will provide TruePoint and Accela with reasonable access to its equipment, systems, personnel, and facilities to the extent needed to complete the Services.
- Monterey County is responsible for purchasing third party hardware and software required for Accela Citizen Access, including but not limited to an online merchant account and all related hardware required by the merchant account provider for the handling of credit cards and/or checks.
- Monterey County is responsible for purchasing third party hardware and software required for the add-on product Accela Wireless. Including but not limited to Wireless report writing software and remote devices.
- TruePoint assumes that all APO data to be migrated will be scrubbed as necessary by County resources prior to import
- Change Order process: Should Monterey County identify additional work as a part of this engagement during the System Configuration Analysis effort or at other points during the project duration, TruePoint will issue a Change Order to reflect the additional costs (if any) associated with the change for review and approval by Monterey County. No additional work will be undertaken without prior consent of Monterey County. See Appendix SOW-A for the Change Order template. If hours are available from tasks that are complete those hours can be used on other tasks with the prior consent of both parties.

## PROJECT RESOURCES AND LOCATION OF WORK

### WORK LOCATION

Services contracted for under this Scope of Work may be performed remotely and/or at Monterey County on-site facilities as deemed appropriate and reasonable for the successful completion of the Services detailed herein. When on-site activities are required at Monterey County, the TruePoint Project Manager will coordinate with Monterey County Project Manager to secure suitable accommodations to meet the specific engagement requirements. It is anticipated that TruePoint will require, at minimum, facilities to accommodate on-site System Configuration Analysis and Training. TruePoint will also require Internet access during on-site configuration efforts that will occur during the course of the project.

### ACCELA AND TRUEPOINT RESOURCES

Accela and TruePoint will assign key Professional Services resources for this engagement with Monterey County. These individuals are well versed in the Accela Automation application, and are well qualified to lead this effort. It should be understood that TruePoint, at its sole discretion, with appropriate notice to the County, may choose to

augment or replace individuals on this team with other qualified team members at any time during the course of this effort. The TruePoint Project Manager shall assume full responsibility for the coordination of this team and its interaction with key Monterey County resources assigned to the effort

## MONTEREY COUNTY RESOURCES

Monterey County will provide the following personnel to work together with the TruePoint and Accela Team to deliver the Services as presented in this document, and make additional personnel available as necessary to ensure the success of this engagement. Additionally, Monterey County should identify one or two users of the new system to be trained as administrators or "power users."

The following list identifies functional roles required by this project, along with a brief description of their anticipated contribution to the project's success. We suggest that you make the following appointments and share the outlined duties with the appropriate appointee. It is critical to the success of your implementation that the team members chosen be available during the implementation cycle, and schedule the time needed to participate fully in the planning and configuration processes.

### Project Sponsor

Responsibilities include the following:

- Ultimate responsibility for the success of the project
- Creating an environment that promotes project buy-in
- Driving the project through all levels of the agency
- High-level oversight throughout the duration of the project

### Project Manager

Responsibilities include the overall administration, coordination, communication, and decision-making associated with the implementation.

- Planning, scheduling, coordinating and tracking the implementation with TruePoint and across the departments within the agency
- Identifying and recruiting the in-house project implementation team
- Attending the initial workshop training
- Ensuring that the project team stays focused, tasks are completed on schedule, and that the project stays on track

### Departmental Representatives

A user representative for each affected department should be appointed. These critical appointments may well determine the success of the Accela Automation implementation.

The departmental representative(s) should have a clear understanding of all the business processes that Accela Automation will affect within their department, and how those business processes cross-departmental boundaries. Ideally, they will have been involved in the initial purchasing decision and have a solid understanding of how the Accela Automation system will interact with departmental business processes. They will be the initial contact person within a department for all Accela Automation issues before, during, and after the implementation. These individuals should be able to make solid business decisions, and have a vested interest in the success of the implementation of the system. Additionally, the ability to effectively communicate with their peers and the project team will be essential. Confidence that the right decisions are being made will promote acceptance by the general user community.

Schedule flexibility will be expected of the departmental representatives, as there will be crucial periods in the implementation process that will require dedicated time.

## PROJECT RESOURCES AND LOCATION OF WORK

### WORK LOCATION

Services contracted for under this Scope of Work may be performed remotely and/or at Monterey County on-site facilities as deemed appropriate and reasonable for the successful completion of the Services detailed herein. When on-site activities are required at Monterey County, the TruePoint Project Manager will coordinate with Monterey County Project Manager to secure suitable accommodations to meet the specific engagement requirements. It is anticipated that TruePoint will require, at minimum, facilities to accommodate on-site System Configuration Analysis and Training. TruePoint will also require Internet access during on-site configuration efforts that will occur during the course of the project.

### ACCELA AND TRUEPOINT RESOURCES

Accela and TruePoint will assign key Professional Services resources for this engagement with Monterey County. These individuals are well versed in the Accela Automation application, and are well qualified to lead this effort. It should be understood that TruePoint, at its sole discretion, with appropriate notice to the County, may choose to augment or replace individuals on this team with other qualified team members at any time during the course of this effort. The TruePoint Project Manager shall assume full responsibility for the coordination of this team and its interaction with key Monterey County resources assigned to the effort.

### MONTEREY COUNTY RESOURCES

Monterey County will provide the following personnel to work together with the TruePoint and Accela Team to deliver the Services as presented in this document, and make additional personnel available as necessary to ensure the success of this engagement. Additionally, Monterey County should identify one or two users of the new system to be trained as administrators or "power users."

The following list identifies functional roles required by this project, along with a brief description of their anticipated contribution to the project's success. We suggest that you make the following appointments and share the outlined duties with the appropriate appointee. It is critical to the success of your implementation that the team members chosen be available during the implementation cycle, and schedule the time needed to participate fully in the planning and configuration processes.

#### Project Sponsor

Responsibilities include the following:

- Ultimate responsibility for the success of the project
- Creating an environment that promotes project buy-in
- Driving the project through all levels of the agency
- High-level oversight throughout the duration of the project

#### Project Manager

Responsibilities include the overall administration, coordination, communication, and decision-making associated with the implementation.

- Planning, scheduling, coordinating and tracking the implementation with TruePoint and across the departments within the agency

- Identifying and recruiting the in-house project implementation team
- Attending the initial workshop training
- Ensuring that the project team stays focused, tasks are completed on schedule, and that the project stays on track

#### Departmental Representatives

A user representative for each affected department should be appointed. These critical appointments may well determine the success of the Accela Automation implementation.

The departmental representative(s) should have a clear understanding of all the business processes that Accela Automation will affect within their department, and how those business processes cross-departmental boundaries. Ideally, they will have been involved in the initial purchasing decision and have a solid understanding of how the Accela Automation system will interact with departmental business processes. They will be the initial contact person within a department for all Accela Automation issues before, during, and after the implementation. These individuals should be able to make solid business decisions, and have a vested interest in the success of the implementation of the system. Additionally, the ability to effectively communicate with their peers and the project team will be essential. Confidence that the right decisions are being made will promote acceptance by the general user community.

Schedule flexibility will be expected of the departmental representatives, as there will be crucial periods in the implementation process that will require dedicated time.

#### Responsibilities include:

- Attending the project kick-off and initial workshop training
- Willing and able to gather data and make decisions about business processes
- Assisting in creating the specifications for custom modifications
- Reviewing and testing the completed modifications
- Participating in the implementation of the Accela Automation solution

#### Recommended Requirements:

- Excellent communication skills
- Clear understanding of the user's perspective and needs
- Clear understanding of the current business processes

#### EXPENSES

All out-of-pocket travel & lodging expenses incurred by TruePoint and Accela resources in the performance of this Scope of Services are inclusive in the Budgetary Estimate. Out-of-pocket travel and living expenses include but are not limited to all travel time, airfare, transportation, lodging, parking, and meals.



PROPOSED PROJECT TIMELINE

ID	Task Name	Duration	Start	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1	Accela Automation Implementation	278 days	Mon 2/18/08	[Timeline bar]											
2	Initiation	5 days	Mon 2/18/08	[Timeline bar]											
3	Project Kickoff Meeting	1 day	Mon 2/18/08	[Timeline bar]											
4	Project Charter	1 day	Mon 2/18/08	[Timeline bar]											
5	Project Plan	5 days	Mon 2/18/08	[Timeline bar]											
6				[Timeline bar]											
7	Product Installation (Accela Hosted)	1 day	Mon 2/25/08	[Timeline bar]											
8	DEV Instance	1 day	Mon 2/25/08	[Timeline bar]											
9	Reference Site	1 day	Mon 2/25/08	[Timeline bar]											
10	PROD Instance	1 day	Mon 2/25/08	[Timeline bar]											
11				[Timeline bar]											
12	Business Analysis/Department Prototypes	62.5 days	Mon 2/25/08	[Timeline bar]											
13	Business Analysis	45 days	Mon 2/25/08	[Timeline bar]											
14	Review Workflow Processes	5 days	Mon 4/28/08	[Timeline bar]											
15	Determine approach for using AA	10 days	Mon 5/5/08	[Timeline bar]											
16	Prototype and BA Acceptance	2.5 days	Mon 5/19/08	[Timeline bar]											
17				[Timeline bar]											
18	System Configuration	61 days	Mon 5/26/08	[Timeline bar]											
19	Accela Automation Configuration	60 days	Mon 5/26/08	[Timeline bar]											
20	Testing	20 days	Mon 8/18/08	[Timeline bar]											
21	Configuration Acceptance	1 day	Mon 9/15/08	[Timeline bar]											
22				[Timeline bar]											
23	Report Development	60 days	Mon 6/25/08	[Timeline bar]											
24	Report List	5 days	Mon 8/25/08	[Timeline bar]											
25	Report Requirements	15 days	Mon 9/1/08	[Timeline bar]											
26	Develop Reports	40 days	Fri 9/12/08	[Timeline bar]											
27	Report Testing	15 days	Fri 10/24/08	[Timeline bar]											
28				[Timeline bar]											
29	Address, Parcel and Owner Data Interface	21 days	Mon 4/7/08	[Timeline bar]											
30	Interface Document	1 day	Mon 4/7/08	[Timeline bar]											
31	Create Standard Import files	3 days	Mon 4/14/08	[Timeline bar]											
32	Run Standard Import Files	1 day	Tue 4/22/08	[Timeline bar]											
33	Test Interface	5 days	Mon 4/28/08	[Timeline bar]											
34				[Timeline bar]											
35	Permits Plus Data Conversion	65 days	Mon 9/22/08	[Timeline bar]											
36	Data Conversion Document	5 days	Mon 9/22/08	[Timeline bar]											

Accela Contract-Attachment A

ID	Task Name	Duration	Start	Month													
				Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
37	Map Permits Plus Data	35 days	Mon 9/29/08														
38	Test Conversion	15 days	Mon 11/17/08														TruePoint
39	Incorporate Changes	15 days	Mon 11/24/08														Count
40	Final Testing and Acceptance	5 days	Mon 12/15/08														True/
41																	Count
42	GIS	18 days	Mon 6/30/08														
43	Accela GIS Setup	6 days	Mon 6/30/08														Accela
44	Accela GIS Testing	10 days	Tue 7/8/08														County
45																	
46	Accela Wireless	8 days	Mon 10/13/08														
47	Accela Wireless Setup	3 days	Mon 10/13/08														
48	Accela Wireless Testing	5 days	Thu 10/16/08														
49																	TruePoint
50	Accela IVR	18 days	Mon 10/20/08														County
51	Accela IVR Setup	8 days	Mon 10/20/08														
52	Accela IVR Testing	5 days	Thu 10/30/08														Accela
53																	County
54	Training	295 days	Mon 8/3/08														
55	Administrator and Console Mgmt. Training	2 days	Mon 8/3/08														TruePoint, County
56	ESME Training	1 day	Mon 7/28/08														
57	Report Writer Training	2 days	Mon 8/11/08														
58	Train the Trainer Training	5 days	Mon 11/17/08														
59	End User Training	40 days	Mon 12/1/08														
60																	TruePoint
61	Production Readiness	5 days	Mon 1/26/09														
62	Move Database and Applications to Production Env.	5 days	Mon 1/26/09														
63	Go Live	0 days	Mon 2/2/09														
64																	
65	Post Production Support	5 days	Mon 2/2/09														
66	Go Live Support	5 days	Mon 2/2/09														
67																	
68	Accela Citizen Access	12 days	Tue 2/24/08														
69	Define Requirements	2 days	Tue 2/24/08														
70	Configure ACA	4 days	Thu 2/25/08														
71	Test ACA	5 days	Wed 3/4/08														
72	Deploy ACA	1 day	Wed 8/11/08														

Page 2

## ATTACHMENT A - DELIVERABLES ACCEPTANCE FORM

Please acknowledge acceptance in one of two ways:

1. Sign and fax the document to Accela Accounting Department, Attention Billing: 925-659-3281, or
2. Email the document as an attachment to [billing@accela.com](mailto:billing@accela.com) stating "accepted" in the subject line or body of the email message.

Accela Acceptance #:

Date:

Project Name/Code:

Contract/Agreement Name/Number/Date:

Accela Manager:

Agency agrees that Accela has successfully completed the following Deliverables / Milestones:

Deliverable / Milestone Item Name/#	Source / Reference Details	Amounts Billable
		\$
		\$

Agency agrees that Accela has successfully completed the Deliverables/Milestones described above and therefore agrees to pay all invoices in connection with the acceptance of the(se) Deliverables/Milestones in accordance with the terms of the related Contract/Agreement.

APPROVALS:

Agency Name:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## APPENDIX B: CHANGE ORDER FROM

### Change Order

Agency: \_\_\_\_\_ CO #: 01  
Project: \_\_\_\_\_ Date: \_\_\_\_\_  
Contract #: \_\_\_\_\_ Date: \_\_\_\_\_  
Amendment #: \_\_\_\_\_ Date: \_\_\_\_\_  
Lease Agreement #: \_\_\_\_\_  
SOW #: \_\_\_\_\_  
Initiating Department: \_\_\_\_\_  
Initiated By: \_\_\_\_\_  
Change Category:  Product  Project  Contract  
Priority:  High/Critical  Medium  Low

<p><b>PROJECT CHANGE DESCRIPTION/TASK SUMMARY:</b></p> <p>1. &lt;issue name&gt;</p> <ul style="list-style-type: none"><li>• issue details / scope impact:</li><li>• schedule impact:</li><li>• resource impact:</li><li>• cost impact:</li></ul> <p>2. &lt;issue name&gt;</p> <ul style="list-style-type: none"><li>• issue details / scope impact:</li><li>• schedule impact:</li><li>• resource impact:</li><li>• cost impact:</li></ul> <p>Total Project Schedule Impact: Total Project Resource Impact: Total Project Cost Impact:</p>
--

<p><b>DISPOSITION COMMENTS:</b></p>
-------------------------------------

Disposition:  Approved  Rejected  Closed  See Comments  
Date: \_\_\_\_\_

### Signature and Acceptance

The above Services will be performed in accordance with this Change Order/Work Authorization and the provisions of the Contract for the purchase, modification, and maintenance of the Accela systems. The approval of this Change Order will act as a Work Authorization for Accela/TruePoint and/or Agency to perform work in accordance with this Change Order, including any new payment terms identified in this Change Order. This Change Order takes precedent and supersedes all other documents and discussions regarding this subject matter.

## HOSTING AGREEMENT

- 1.0 Scope of Hosting Services CONTRACTOR shall provide the hosting services described in this Section for the following software products: Accela Automation® Land Management, Accela Automation Licensing, Accela Citizen Access™, Accela Wireless™, Accela GIS™, Accela Service Request™, and Accela IVR™ (“Hosted Applications”).
- 2.0 System Administration and Security: From the effective date of the AGREEMENT through December 31, 2012, the Hosted Applications will be hosted by CONTRACTOR on CONTRACTOR-owned equipment at a physically-secure commercial hosting facility with responsibility assumed by CONTRACTOR. CONTRACTOR will perform system administration duties as required to maintain the service levels described below and to facilitate timely restoration of County’s data and operations, if necessary, following unanticipated interruptions of the Hosted Applications. CONTRACTOR will implement suitable network security measures to minimize the likelihood of unanticipated interruptions of the Hosted Applications. CONTRACTOR will provide regular backup services for the Hosted Applications and County data contained therein as provided in Attachment A.
- 3.0 Infrastructure Availability: CONTRACTOR will provide County with no less than twenty-four (24) hours’ notice prior to Hosted Applications unavailability due to planned maintenance and will provide five (5) business days’ notice prior to any planned network, server hardware, operating environment, or database modifications of a material nature. Excluding the foregoing planned events, CONTRACTOR warrants that the Hosted Applications will be generally-available no less than ninety-eight percent (98%) of each calendar day (during operational hours 7:30AM-5PM PST). For each calendar day during which the availability of the Hosted Applications does not achieve the established standard, CONTRACTOR will credit one thousand dollars (\$1,000.00) to County’s account as liquidated damages, provided that the substandard availability is identified by County in writing or by e-mail to CONTRACTOR and can be objectively verified. Credits accumulated pursuant to this Section may be applied to additional CONTRACTOR products and/or services, but will not be refunded to County.
- 4.0 Warranty: CONTRACTOR shall commence and complete the obligations described in this HA in a good and workmanlike manner, consistent with the practices and standards of care generally-accepted within and expected of CONTRACTOR’s industry, to ensure that the operation and availability of the Hosted Applications does not materially differ from documented specifications. CONTRACTOR may make repeated efforts within a reasonable time period to resolve operational issues. When an operational issue cannot be resolved, County’s exclusive remedy will be damages in an amount equal to the total of hosting fees paid to CONTRACTOR for the defective or non-conforming software products amongst the Hosted Applications during the twelve (12) calendar months immediately preceding the occurrence of the unresolved operational issue.
- 5.0 Hosting Fee In exchange for the Hosting Services described hereinabove, over the term of the contract (5 years) County shall pay CONTRACTOR a hosting fee not to exceed a total of three hundred seventy-five thousand dollars (\$375,000.00).

Hosting Fee			
Year 1			\$75,000
Year 2			\$75,000
Year 3			\$75,000
Year 4			\$75,000
Year 5			\$75,000
<b>Subtotal</b>			<b>\$375,000</b>
Year 6	1st Renewal	3.5% increase	\$77,625

**END OF DOCUMENT**

## EXHIBIT A

### Hardware:

- Dual Juniper Netscreen 204's running High Availability
- Individual T1 lines to each Netscreen
- Dual Cisco 3500 switches for redundancy
- F5 BigIP load balancer
- Cisco 2924 switch on internal network
- Multiple IBM x3850 servers running with a dual NetApp FAS3020HA cluster.
- Sun Enterprise 4500 and StorEdge A5200
- Redundancy on servers is set to RAID 0 and 5.

### Software:

- VMware Virtual Machines on the NetApp cluster for each AA service. This includes redundant WEB and CFMX servers load balanced through AA software and the BigIP.
- Production Oracle database running on the Sun System and RAID controller.

### Data Recovery:

- Archivelogs are backed up to another server every 20 minutes.
- Every night logical backups of our databases are created and moved off to disk.
- Three times a week, an online hot backup is taken and moved to disk.
- Data backed up internally with storage set to six months
- Nightly backups done by Qwest to a hosted tape drive. Storage is currently set to two weeks.

### Monitoring:

- All servers monitored using AdventNet OpManager.
- Software monitors and notifies for hardware down, services and url's unresponsive as well as system health including Memory usage, Disk utilization and space and CPU usage. Custom monitors can be set.
- F5 BigIP monitors critical systems and ports and notifies via email if unresponsive.

### Air Conditioning:

- N+1 redundancy of cooling towers, water pumps and chillers
- Multiple air handling units provide an additional level of redundancy

### Security:

- 24/7 on-site security guard
- Indoor and outdoor security monitoring
- Badge/picture ID access screening
- Biometric access screening
- Escort requirements for access to raised floor areas

**Fire Suppression:**

- -Fire detection and suppression systems for 24/7 operations of your critical systems
- -Dual fire detection (photoelectronic/ionization and sniffer) systems to ensure early detection
- -Central fire alarm system notification with a direct alarm to the local fire department for fast response
- -Multi-zone pre-action dry pipe suppression system allows suppression to be contained to the affected area and not disrupt conditions elsewhere

**System Redundancy:**

- -Built-in fail-over through redundant router and switch configuration in the LAN
- -Dual power to each rack unit from independent Power Distribution Units (PDUs) removes PDU loss as a single point of failure
- -N+1 redundancy of uninterruptible power supplies
- -Redundant generator power supplies, in the event of a power failure from commercial power
- The secondary site occurs in a separate geographical location from the primary site
- The secondary site has a rating of Tier III
- Duplicate hardware that exists in the primary site exists at the secondary site
- Communication between the two sites is provided by a dedicated PPP circuit with WAN-based failover
- Replication at the NetApp storage level occurs semi-synchronously via NetApp's SnapMirror Technology
- Since all of the virtual server hosts and database files reside in the NetApp cluster, all of these are kept in sync at the secondary site
- Confirmed primary site disaster will result in Accela activating the secondary site as its live web solution

**END OF DOCUMENT**



<b>SERVICES AGREEMENT</b>
---------------------------

- 1.0 Professional Services: CONTRACTOR shall provide the implementation, data conversion, and/or training services ("Professional Services") described in the Statement of Work (SOW) in Attachment A.
- 2.0 Acceptance: As provided in the SOW, CONTRACTOR will notify County upon completion of those implementation services subject to testing. For a period not to exceed thirty (30) calendar days in duration ("Test Period"), County may evaluate the operation of the implemented CONTRACTOR software deliverables ("Deliverables") in a test environment or using test data. If County reasonably determines that its operational use of the Deliverables is substantially impaired by one or more material errors in the Deliverables, it will so notify CONTRACTOR in writing prior to the completion of the Test Period ("Adverse Notification"), specifying in sufficient detail the nature of the error(s). Upon receipt of an Adverse Notification, CONTRACTOR will correct any identified and reproducible material errors in the Deliverables within a reasonable time and County may retest the Deliverables for as many as fifteen (15) additional calendar days. Acceptance will be deemed to occur when a) County notifies CONTRACTOR that the Deliverables have successfully completed County's testing; b) the Test Period or subsequent retesting period(s) are completed without an Adverse Notification being received by CONTRACTOR from County; or c) County uses the Deliverables in a "live" environment to perform its customary governmental, administrative, or business activities, whichever first occurs ("Acceptance Date").
- 2.1 County Cooperation: As required, County agrees to provide CONTRACTOR with appropriate access to County's personnel, data systems, and other resources. County acknowledges that the implementation process described in this Services Agreement ("SA") is cooperative in nature and that County must complete its designated tasks in a timely manner in order for CONTRACTOR to proceed with and complete the Professional Services. County delays during the implementation period may have adverse collateral effects on CONTRACTOR's overall work schedule. Although CONTRACTOR will use its best efforts to immediately resume work following such a delay, County acknowledges that schedules for the Professional Services may be delayed by more than the number of days delayed by County. County agrees that if additional time is required to complete the Professional Services because of County delays, such time will be charged to County at CONTRACTOR's then-current time-and-materials rates.

**EXHIBIT A**

<b>Deliverables</b>	<b>Fees</b>
Professional Services — Installation	\$3,040.00
Professional Services — Project Management	\$35,000.00
Professional Services — Business Analysis	\$62,700.00
Professional Services — Configuration	\$115,500.00
Professional Services — APO Interface	\$6,600.00
Professional Services — Conversion	\$39,600.00
Professional Services — Reports	\$19,800.00
Professional Services — Event Scripts	\$19,800.00
Professional Services — Accela Citizen Access™	\$14,000.00
Professional Services — Accela GIS™	\$8,880.00
Professional Services — Accela Wireless™	\$3,960.00
Professional Services - Accela IVR™	\$10,000
Professional Services — Training	\$21,120.00
Professional Services — Go-Live Onsite	\$6,600.00
Consultant Travel Expenses	\$27,500.00 (Estimated)
<b>Total of Fees: \$594,100.00</b>	

- 1 Professional Services comprise only those activities and deliverables described in the Statement of Work (SOW) document attached hereto as Exhibit A.
- 2 Total of Fees includes estimated amount for Consultant Travel Expenses and does not include applicable sales and use taxes, if any.

**END OF DOCUMENT**

## LICENSE AGREEMENT

### 1.0 Intellectual Property License

1.1 License: The software products ("Software") listed in Exhibit A are protected under the laws of the United States and the individual states and by international treaty provisions. CONTRACTOR retains full ownership in the Software and grants to County a limited, nonexclusive, nontransferable license to use the Software, subject to the following terms and conditions:

- 1.1.1 The Software is provided for use only by County employees.
- 1.1.2 The Software may be installed on one or more computers but may not be used by more than the number of users for which the County has named user licenses. The Software is deemed to be in use when it is loaded into memory in a computer, regardless of whether a user is actively working with the Software. CONTRACTOR may audit County's use of the Software to ensure that County has paid for an appropriate number of licenses. Should the results of any such audit indicate that County's use of the Software exceeds its licensed allowance, County agrees to pay all costs of its overuse as determined using CONTRACTOR's then-current pricing; any such assessed costs will be due and payable by County upon assessment. County agrees that CONTRACTOR's assessment of overuse costs pursuant to this Subsection is not a waiver by CONTRACTOR of any other remedies available to CONTRACTOR in law and equity for County's unlicensed use of the Software.
- 1.1.3 County may make backup copies of the Software only to protect against destruction of the Software. County may copy CONTRACTOR's documentation only for internal use by County's employees.
- 1.1.4 County may not make any form of derivative work from the Software, although County is permitted to develop additional or alternative functionality for the Software using tools and/or techniques licensed to County by CONTRACTOR.
- 1.1.5 County may not obscure, alter, or remove any confidentiality or proprietary rights notices.
- 1.1.6 County is liable to CONTRACTOR for any losses incurred as the result of unauthorized reproduction or distribution of the Software which occur while the Software is in County's possession or control.
- 1.1.7 County may use the Software only to process transactions relating to properties within both its own geographical and political boundaries and

may not sell, rent, assign, sublicense, lend, or share any of its rights under this LA.

1.1.8 County is entitled to receive the Software compiled (object) code and is licensed to use any data code produced through implementation and/or normal operation of the Software; County is not entitled to receive source code for the Software except pursuant to an Intellectual Property Escrow Agreement, which may be executed separately by the Parties.

1.1.9 All rights not expressly granted to County are retained by CONTRACTOR.

## 2.0 License Warranties

2.1.1 CONTRACTOR warrants that it has full power and authority to grant this license and that, as of the effective date of this LA, the Software does not infringe on any existing intellectual property rights of any third party. If a third party claims that the Software does infringe, CONTRACTOR may, at its sole option, secure for County the right to continue using the Software or modify the Software so that it does not infringe. CONTRACTOR will have the sole right to conduct the defense of any legal action and all negotiations for its settlement or compromise.

2.1.2 CONTRACTOR has no obligation for any claim based upon a modified version of the Software or the combination or operation of the Software with any product, data, or apparatus not provided by CONTRACTOR. CONTRACTOR provides no warranty whatsoever for any third-party hardware or software products.

2.1.3 Except as expressly set forth herein, CONTRACTOR disclaims any and all express and implied warranties, including but not necessarily limited to warranties of merchantability and fitness for a particular purpose.

## EXHIBIT A

Deliverables	Quantity	Fees
ACCELA Automation® Land Management Server License	1	\$49,995.00
ACCELA Automation Land Management Included Named User Licenses	5	\$0.00 <sup>1</sup>
ACCELA Automation Land Management Additional Named User Licenses	145	\$289,855.00
ACCELA Citizen Access™ Server License	1	\$9,995.00
ACCELA Citizen Access Use License (Based Upon 410,206 Population)	1	\$24,612.36
ACCELA Citizen Access Module Fee	3	\$29,985.00
ACCELA Wireless™ Server License	1	\$34,995.00
ACCELA Wireless Included Named User Licenses	5	\$0.00 <sup>1</sup>
ACCELA Wireless Additional Named User Licenses	5	\$9,995.00
ACCELA GIS™ Server License	1	\$9,995.00
ACCELA GIS Included Named User Licenses	5	\$0.00 <sup>1</sup>
ACCELA GIS Additional Named User Licenses	145	\$86,855.00
ACCELA Service Request™ Server License	1	\$19,995.00
ACCELA Service Request Included Named User Licenses	5	\$0.00 <sup>1</sup>
ACCELA Automation Licensing Server License	1	\$49,995.00
ACCELA Automation Licensing Included Named User Licenses	5	\$0.00 <sup>1</sup>
ACCELA IVR™ Port Licenses (Tier II)	5	\$39,970.00
County Discount	N/A	(\$449,552.36) <sup>2</sup>
<b>Total of Fees</b>		<b>\$196,790.00</b>

- 1 Included Named User Licenses are included with associated product server license fees at no additional charge to COUNTY.
- 2 Application of COUNTY Discount is contingent upon execution of this LA by COUNTY on or before March 31, 2008. If LA is not executed by COUNTY on or before said date, COUNTY Discount will automatically lapse.
- 3 Total of Fees does not include applicable sales and use taxes, if any.

License Fees are fixed-price deliverables for which full payment is due upon signing.

END OF DOCUMENT

## MAINTENANCE AGREEMENT

### 1.0 Maintenance Services

1.1 Telephone Support CONTRACTOR will provide County with a telephone number to contact the Customer Resource Center (CRC), CONTRACTOR's live technical support facility, which is available from 4:00 a.m. until 6:00 p.m. Pacific time Monday through Friday, excluding CONTRACTOR's observed holidays. Although the dates of said observed holidays vary from year-to-year, CONTRACTOR's current practice is to observe ten (10) full holidays and two (2) half-day holidays each year. These holidays are ordinarily the following:

- New Year's Day
- Martin Luther King, Jr. Day
- Presidents' Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans' Day
- Thanksgiving Day and day following
- Christmas Eve (1/2 day), Christmas Day
- New Year's Eve (1/2 day).

1.1.1 E-Mail Support CONTRACTOR will provide County with one or more electronic mail addresses to which County may submit routine or non-critical support requests, which CONTRACTOR will address during its regular business hours, which are 8:00 a.m. through 5:00 p.m. local times weekdays, excluding CONTRACTOR's observed holidays.

1.1.2 Online Support CONTRACTOR will provide County with access to archived software updates and other technical information in CONTRACTOR's online support databases, which are continuously available.

1.1.3 Remote Support When required to properly resolve a maintenance request, CONTRACTOR will provide remote assistance to County via the WebEx™ Meeting Center™ environment or another mutually-acceptable remote communications method.

1.1.4 On-Site Support If County does not wish for CONTRACTOR to resolve its maintenance requests remotely, CONTRACTOR will provide on-site assistance to County at a time-and-materials rate of one hundred eighty-five dollars (\$185.00) per hour for the initial two (2) calendar years of this AGREEMENT and thereafter at CONTRACTOR's then-current consulting rates. In addition to these charges, County will compensate CONTRACTOR for associated airfare, lodging, rental transportation, meals, and other incidental expenses as such expenses accrue; such expenses will

be incurred in accordance with County's established travel policies or otherwise approved by County.

- 1.1.5 Software Updates CONTRACTOR will provide revisions of and enhancements to maintained software products to County as such updates are generally-released by CONTRACTOR.

2.0 Maintenance Limitations

- 2.1 Limitations Generally The following are not covered by this MA, but may be separately available at rates and on terms which may vary from those described herein:

- a) Services required due to misuse of the CONTRACTOR-maintained software products;
- b) Services required due to software corrections, customizations, or modifications not developed or authorized by CONTRACTOR;
- c) Services required by County to be performed by CONTRACTOR outside of CONTRACTOR's usual working hours;
- d) Services required due to external factors including, but not necessarily limited to, County's use of software or hardware not authorized by CONTRACTOR;
- e) Services required to resolve or work-around conditions which cannot be reproduced in CONTRACTOR's support environment;
- f) Services which relate to tasks other than maintenance of County's existing implementation and configuration of the CONTRACTOR-maintained software products including, but not necessarily limited to, enhancing or adapting such products for specific operating environments;
- g) Services requested by County to implement software updates provided by CONTRACTOR pursuant to this MA; and
- h) New or additional applications, modules, or functionality released by CONTRACTOR during the term of this MA.

- 2.2 Legacy Releases CONTRACTOR will provide maintenance support for the current release of each of its maintained software applications and for the release immediately preceding such current release. All other releases are deemed to be "Legacy Releases". CONTRACTOR will respond to maintenance requests concerning Legacy Releases only using currently-available information. Services requiring additional research, engineering-level support, or coding or programming by CONTRACTOR will not be provided pursuant to this MA, but may be separately available at rates and on terms which may vary from those described herein.

- 2.3 Warranty CONTRACTOR will commence and complete the maintenance obligations described in this MA in a good and workmanlike manner, consistent with the practices and standards of care generally-accepted within and expected of CONTRACTOR's industry, to ensure that the operation of the maintained software products does not materially differ from documented specifications. CONTRACTOR may make repeated efforts

within a reasonable time period to resolve maintenance requests. When a maintenance request cannot be resolved, County's exclusive remedy will be damages in an amount equal to the total of maintenance fees paid to CONTRACTOR for the defective or non-conforming software products for the twelve (12) calendar months immediately preceding County's maintenance request.

3.0 Compensation

- 3.1 Maintenance Fees In exchange for the Maintenance Services described hereinabove, County will pay to CONTRACTOR the amounts indicated in Exhibit A.
- 3.2 Payment CONTRACTOR may, at its sole discretion, suspend its obligations hereunder without penalty until payments for all past-due billings have been paid in full by County.



EXHIBIT A

Deliverables	Fees
First Term Annual Maintenance for Accela Automation <sup>1</sup>	\$77,969.00
First-Term Annual Maintenance for Accela Citizen Access <sup>TM 1</sup>	\$8,841.00
First-Term Annual Maintenance for Accela Wireless <sup>TM 1</sup>	\$8,998.00
First-Term Annual Maintenance for Accela GIS <sup>TM 1</sup>	\$19,370.00
First-Term Annual Maintenance for Accela Service Request <sup>TM 1</sup>	\$3,999.00
First-Term Annual Maintenance for Accela IVR <sup>TM 1</sup>	\$7,994.00
<b>Subtotal of Fees — First Term</b>	<b>\$127,471.00</b>
Applicable Sales and Use Taxes — First-Term Annual Maintenance	\$4,609.95
<b>Subtotal of Fees — First Term (Includes Applicable Taxes)</b>	<b>\$131,780.95</b>
Second Term Annual Maintenance for Accela Automation <sup>2</sup>	\$77,969.00
Second-Term Annual Maintenance for Accela Citizen Access <sup>2</sup>	\$8,841.00
Second-Term Annual Maintenance for Accela Wireless <sup>2</sup>	\$8,998.00
Second-Term Annual Maintenance for Accela GIS <sup>2</sup>	\$19,370.00
Second-Term Annual Maintenance for Accela Service Request <sup>2</sup>	\$3,999.00
Second-Term Annual Maintenance for Accela IVR <sup>2</sup>	\$7,994.00
<b>Subtotal of Fees — Second Term</b>	<b>\$127,471.00</b>
Applicable Sales and Use Taxes — Second-Term Annual Maintenance	\$4,609.95
<b>Subtotal of Fees — Second Term (Includes Applicable Taxes)</b>	<b>\$131,780.95</b>
Third Term Annual Maintenance for Accela Automation <sup>3</sup>	\$77,969.00
Third-Term Annual Maintenance for Accela Citizen Access <sup>3</sup>	\$8,841.00
Third-Term Annual Maintenance for Accela Wireless <sup>3</sup>	\$8,998.00
Third-Term Annual Maintenance for Accela GIS <sup>3</sup>	\$19,370.00
Third-Term Annual Maintenance for Accela Service Request <sup>3</sup>	\$3,999.00
Third-Term Annual Maintenance for Accela IVR <sup>3</sup>	\$7,994.00
<b>Subtotal of Fees — Third Term</b>	<b>\$127,471.00</b>
Applicable Sales and Use Taxes — Third-Term Annual Maintenance	\$4,609.95
<b>Subtotal of Fees — Third Term (Includes Applicable Taxes)</b>	<b>\$131,780.95</b>
Fourth Term Annual Maintenance for Accela Automation <sup>4</sup>	\$77,969.00
Fourth-Term Annual Maintenance for Accela Citizen Access <sup>4</sup>	\$8,841.00
Fourth-Term Annual Maintenance for Accela Wireless <sup>4</sup>	\$8,998.00
Fourth-Term Annual Maintenance for Accela GIS <sup>4</sup>	\$19,370.00
Fourth-Term Annual Maintenance for Accela Service Request <sup>4</sup>	\$3,999.00
Fourth-Term Annual Maintenance for Accela IVR <sup>4</sup>	\$7,994.00
<b>Subtotal of Fees — Fourth Term</b>	<b>\$127,471.00</b>
Applicable Sales and Use Taxes — Fourth-Term Annual Maintenance	\$4,609.95
<b>Subtotal of Fees — Fourth Term (Includes Applicable Taxes)</b>	<b>\$131,780.95</b>
Fifth Term Annual Maintenance for Accela Automation <sup>5</sup>	\$77,969.00
Fifth-Term Annual Maintenance for Accela Citizen Access <sup>5</sup>	\$8,841.00
Fifth-Term Annual Maintenance for Accela Wireless <sup>5</sup>	\$8,998.00
Fifth-Term Annual Maintenance for Accela GIS <sup>5</sup>	\$19,370.00
Fifth-Term Annual Maintenance for Accela Service Request <sup>5</sup>	\$3,999.00

Fifth-Term Annual Maintenance for Accela IVR <sup>5</sup>	\$7,994.00
<b>Subtotal of Fees — Fifth Term</b>	<b>\$127,171.00</b>
Applicable Sales and Use Taxes — Fifth-Term Annual Maintenance	\$4,609.95
<b>Subtotal of Fees — Fifth Term (Includes Applicable Taxes)</b>	<b>\$131,780.95</b>
<b>Total of Fees</b>	<b>\$658,904.75</b>

- 1 First-Term Annual Maintenance commences on March 31, 2008 and ends on December 31, 2008.
- 2 Second-Term Annual Maintenance commences on January 1, 2009 and ends on December 31, 2009.
- 3 Third-Term Annual Maintenance commences on January 1, 2010 and ends on December 31, 2010.
- 4 Fourth-Term Annual Maintenance commences on January 1, 2011 and ends on December 31, 2011.
- 5 Fifth-Term Annual Maintenance commences on January 1, 2012 and ends on December 31, 2012.

Maintenance Fees for all terms will be paid as part of the lease purchase agreement.

**EXHIBIT B****Case Handling – Critical Severity**

- Definition
  - System or application is non-functional or seriously affected and there is no reasonable workaround available
  - For example, business is halted
- Response Goal
  - Confirmation of receipt within 1 business hour
  - Update as information arrives or at the interval you specify
- Resolution Goal
  - Upon confirmation of receipt, CONTRACTOR begins continuous work on the problem
  - CONTRACTOR will put forth the effort to provide a workaround, fix, or estimated completion date within 48 hours after the problem has been diagnosed and/or replicated, provided there is an agency representative available to assist with issue diagnosis and testing during the resolution process

**Case Handling – High Severity**

- Definition
  - System or application is affected and there is no workaround available or the workaround is impractical
  - For example, cannot process payments or system response is very slow
- Response Goal
  - Confirmation of receipt within 4 business hours
- Resolution Goal
  - CONTRACTOR will put forth our best effort to provide a workaround or fix or estimated completion date within 7 business days after the problem has been diagnosed and/or replicated

**Case Handling – Moderate Severity**

- Definition
  - System or application feature is non-functional and a convenient workaround exists
  - For example, non-critical feature is unavailable or requires additional user intervention
- Response Goal
  - Confirmation of receipt within 8 business hours
- Resolution Goal
  - CONTRACTOR will put forth our best effort to provide a workaround or fix or estimated completion date within 14 business days after the problem has been diagnosed and/or replicated

**Case Handling – Low Severity**

- Definition
  - System or application feature works, but there is a minor problem
  - For example, incorrect label or Missing help file.
- Response Goal
  - Confirmation of receipt within 24 business hours
- Resolution Goal

- Resolution for the issue may be released as a patch set or be incorporated into a future release of the product

### **Beyond On-demand Product Support**

- Learn more about new features
- "Sanity check" on new activities, fees, and environments
- Advice on report writing, esp. the Data Dictionary
- Advice on database maintenance
- Advice on database/hardware best practices
- Advice on data recovery

### **Receive Email Updates**

- The CONTRACTOR team sends product release information via e-mail to those contacts that have requested to receive them

### **Major Releases**

Approximately every two years the initial release number is incremented to indicate significant platform upgrades. Two major releases per year (every six months, Jan/Feb and July). In 2007 the summer release was 6.4.0, the February 2008 release will be 6.5.0. In major releases we introduce significant enhancements.

### **Minor Releases**

Between the major releases are point releases, for example between the 6.4.0 and 6.5.0 release the scheduled minor releases are 6.4.1 and 6.4.2. Minor releases allow the product to be enhanced as needed for new County implementation and provide the opportunity to fix bugs that are considered critical enough to require a solution before the next scheduled major release.

### **Hot Fix Patches**

In addition to scheduled releases, hot fix patches may be developed and deployed as needed to address a critical bug that has a significant impact on County operations. These are developed on an as-needed basis and in consultation with all parties.

- Submit your contact information to [info@CONTRACTOR.com](mailto:info@CONTRACTOR.com) to start receiving these email updates today!
- Send a .xls or .csv file that includes the following fields: First name, Last name, Title, Agency, E-mail, and Phone (see sample below)

### **Contact Product Support by Phone or E-mail**

Hours: M - F 4:00 AM - 6:00 PM Pacific Time  
Phone: (559) 627-1959, ext. 5  
Fax: (559) 733-5594  
E-mail: [support@CONTRACTOR.com](mailto:support@CONTRACTOR.com)

END OF DOCUMENT

## MUNICIPAL TECHNOLOGY LEASE-PURCHASE AGREEMENT

This Municipal Technology Lease-Purchase No. 4854 (hereafter referred to as "Lease") dated as of March 25, 2008, by and between Government Capital Corporation, a Texas corporation (herein referred to as "Lessor"), and Monterey County, a political subdivision or agency of the State of California (hereinafter referred to as "Lessee").

WITNESSETH: In consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto agree as follows:

1. **Term and Payments.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor those software licenses described in Exhibit A hereto (hereinafter, with all replacement parts, substitutions, proceeds, increases, additions, accessions, repairs and accessories incorporated therein or affixed thereto, referred to as the "Property") for the amounts to be paid in the sums (the "Lease Payments") and on the dates (the "Lease Payment Dates") set forth in Exhibit B hereto, such payments having a principal and interest component. The obligation of the Lessee to make the Lease Payments called for in Exhibit B hereto shall be absolute and unconditional in all events and shall not be subject to any set-off, defense, counterclaim or recoupment for any reason except for that provided in Section 2. The term of the Lease hereunder shall commence upon the dated date of the Lease and shall continue so long as any amounts remain unpaid under this Lease. The term of the Lease will terminate upon the first to occur of: (a) the exercise by Lessee of the Early Redemption provision set forth in Exhibit B hereto, (b) the payment by Lessee of all sums required to be paid by Lessee under the Lease. Lessee's obligation to pay lease Payments and any additional amounts payable under the Lease constitutes a current obligation payable exclusively from legally available funds and shall not be construed to be an indebtedness within the meaning of any applicable constitutional or statutory limitation or requirement.

2. **Abatement.** Lessee agrees to pay the Lease Payments for the applicable Lease Term in the amounts and on the dates called for in Exhibit B hereto. So long as Lessee has the right to the beneficial use and enjoyment of the Property under the Lease, Lessee agrees that Lessee's obligations under the Lease are absolute and unconditional, notwithstanding any dispute between or among Lessee and Lessor, the Vendor or any other person. ~~If there is substantial interference with or loss of Lessee's beneficial use or operation of the Property subject to the Lease, Lease Payments due under the Lease shall be abated in the same proportion that the portion of the Property unavailable for Lessee's beneficial use and operation bears to all of the Property subject to the Lease.~~ To the extent permitted by applicable law, Lessee hereby waives any and all rights conferred upon it, by statute or otherwise, to terminate, cancel or surrender the Lease or any or all of the Property except in accordance with the express terms of this Agreement. Lessee shall notify Lessor in writing of any threat to its use or operation of the Property subject to the Lease within fifteen (15) days after it learns of such threat. The obligation to make full Lease Payments with respect to the Property under the Lease shall recommence as of the date Lessee has regained beneficial use and operation of such Property, and the provisions of the Lease, including, but not limited to, dates on which Lease Payments are due, shall be extended for a period equal to the period the obligation to make Lease Payments was abated.

3. **Taxes.** In addition to the Lease Payments to be made pursuant to Section 1 hereof, Lessee agrees to indemnify and hold Lessor harmless from and against and to pay Lessor, as additional rent, on demand, an amount equal to all licenses, assessments, sales, use, real or personal property, gross receipts or other taxes, levies, imposts, duties or charges, if any, together with any penalties, fines, or interest thereon imposed against or on Lessor, Lessee or the Property by any governmental authority upon or with respect to the Property or the purchase, ownership, lease, possession, operation, return or sale of, or receipt of Payments for, the Property, except any Federal or state income taxes, if any, payable by Lessor. Lessee may contest any such taxes prior to payment provided such contest does not involve any risk of sale, forfeiture or loss of the Property or any interest therein. The Lease Payments payable by Lessee under this Lease have been established to reflect the obligation of Lessee to pay amounts under this Section 3.

4. **Covenant to Budget and Appropriate.** Lessee covenants to take such action as may be necessary to include all Lease payments due under the Lease in each of its budgets during the Lease Term of the Lease and to make the necessary annual appropriations for all such Lease payments. The covenants on the part of Lessee in this Agreement shall be deemed to be and shall be construed to be ministerial duties imposed by law and it shall be the duty of each and every public official of Lessee to take such action and do such things as are required by law in the performance of the official duty of such officials to enable Lessee to carry out and perform the covenants and agreements in this Agreement and the Lease agreed to be carried out and performed by Lessee.

5. **Lessee's Covenants and Representations.** Lessee covenants and represents as follows:

a) Lessee will provide an opinion of its counsel in substantially that form which Lessor will provide, including representations to the effect that, it has full power and authority to enter into this Lease which has been duly authorized, executed, and delivered by Lessee and is a valid and binding obligation of Lessee enforceable in accordance with its terms, and all requirements for execution, delivery and performance of this Lease have been, or will be, complied with in a timely manner;

- b) There are no pending or threatened lawsuits or administrative or other proceedings contesting the authority for, authorization of performance of, or expenditure of funds pursuant to, this Lease;
- c) Information supplied and statements made by Lessee in any financial statement or current budget prior to or contemporaneously with the Lease are true and correct;
- d) Lessee has an immediate need for substantially all of the Property, which need is not temporary or expected to diminish in the foreseeable future;
- e) Lessee represents that, with respect to the Lease, the use and operation of the Property is essential to its proper, efficient and economic governmental operation. Lessee does not intend to sell or otherwise dispose of the Property or any interest therein prior to the last Lease Payment scheduled to be paid under the Lease.
- f) There are no circumstances presently affecting the Lessee that could reasonably be expected to alter its foreseeable need for the Property or adversely affect its ability to budget funds for the payment of sums due hereunder; and
- g) No event has occurred which would constitute an abatement or event of default under any lease, debt, revenue bond or obligation which Lessee has issued during the past ten (10) years.

6. **Use and Licenses.** Lessee shall pay and discharge all operating expenses and shall cause the Property to be operated by competent persons only. Lessee shall use the Property only for its proper purposes and will not install, use, operate or maintain the Property improperly, carelessly, or in violation of any applicable law, ordinance, rule or regulation of any governmental authority, or in a manner contrary to the nature of the Property or the use contemplated by its manufacturer, or in the case of any software portion of any Property, in a manner contrary to any license applicable to said software. Lessee shall keep the Property at the location stated on the Certificate of Acceptance executed by Lessee upon delivery of the Property until Lessor, in writing, permits its removal, and the Property shall be used solely in the conduct of the Lessee's operations. Lessee shall obtain, at its expense, all registrations, permits and licenses, if any, required by law for the installation and operation of the Property.

7. **Maintenance.** Lessor shall have no obligation of any nature to provide maintenance to or service regarding the Property.

8. **Alterations.**

(a) Lessee may, at its own expense, install or place in or on, or attach or affix to, the Property such Property or accessories as may be necessary or convenient to use the Property for its intended purposes provided that such Property or accessories do not impair the value or utility of the Property. All such Property and accessories shall be removed by Lessee upon termination of this Lease, provided that any resulting damage shall be repaired at Lessee's expense. Any such Property or accessories not removed shall become the property of Lessor.

(b) Without the written consent of Lessor, Lessee shall not make any other alterations, modifications or improvements to the Property except as required or permitted hereunder, or as otherwise permitted pursuant to any applicable software licensing Lease. Any other alterations, modifications or improvements to the Property shall immediately become part of the Property, subject to the provisions hereof. Without the prior written consent of Lessor, Lessee shall not affix or attach any of the Property to any real property. The Property shall remain personal property regardless of whether it becomes affixed or attached to real property or permanently rests upon any real property or any improvement thereon.

9. **Liens.** Lessee shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, security interest, pledge, lien, charge, encumbrance or claim on or with respect to the Property, title thereto or any interest therein, except the respective rights of Lessor and Lessee hereunder.

10. **Insurance.** Lessor shall have no obligation of any nature to provide any insurance in connection with Lessee's use of the Property. Lessee shall either be self-insured with regard to the Property or shall purchase and maintain insurance with regard to the Property. Lessee shall bear the entire risk of loss associated with the Property.

11. **Indemnification.** To the extent permitted by law, Lessee shall indemnify and save harmless Lessor and its agents and assigns, employees, officers and directors from and, at Lessee's expense, defend Lessor and its agents, employees, officers and directors against all liability, obligations, losses, damages, penalties, claims, actions, costs and expenses (including but not limited to reasonable attorneys' fees) of whatsoever kind or nature which in any way relate to or arise out of this Lease or the ownership, lease, possession, operation, condition, sale or return of the Property. No indemnification will be made under this Section or elsewhere in this Lease for negligence or breach of duty under this Lease by Lessor, its directors, officers, agents, employees, successors, or assignees. Lessor's and Lessee's obligations under this Section shall remain valid and binding notwithstanding termination or assignment of this Lease.

12. No Warranty. EXCEPT FOR REPRESENTATIONS, WARRANTIES, AND SERVICE LEASES RELATING TO THE PROPERTY MADE OR ENTERED INTO BY THE MANUFACTURERS OR SUPPLIERS OF THE PROPERTY, ALL OF WHICH ARE HEREBY ASSIGNED TO LESSEE, LESSOR HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND ASSUMES NO OBLIGATION WITH RESPECT TO THE TITLE, MERCHANTABILITY, CONDITION, QUALITY OR FITNESS OF THE PROPERTY DESCRIBED IN EXHIBIT A FOR ANY PARTICULAR PURPOSE OR THE CONFORMITY OF THE PROPERTY TO SPECIFICATION OR PURCHASE ORDER, ITS DESIGN, DELIVERY, INSTALLATION OR OPERATION. All such risks shall be borne by Lessee without in any way excusing Lessee from its obligations under this Lease, and Lessor shall not be liable to Lessee for any damages on account of such risks. All claims or actions on any warranty so assigned shall be made or prosecuted by Lessee, at its sole expense, upon prior written notice to Lessor. Lessor may, but shall have no obligation whatsoever to, participate in such claim or action on such warranty, at Lessor's expense. Any recovery under such a warranty shall be made payable jointly to Lessee and Lessor.

13. Early Redemption. Provided Lessee has complied with the terms and conditions of this Lease, Lessee shall have the right to pre-pay the scheduled Lease Payments upon the payment of the Early Redemption Value set forth on Exhibit B by giving written notice to Lessor not less than sixty (60) days prior to the date specified in Exhibit B for the exercise of such early redemption right; provided that upon Lessee's timely payment of all Lease Payments specified in Exhibit B, Lessee shall be deemed to have paid in full the Early Redemption Value and shall be deemed to have acquired all of Lessor's right, title and interest in and to the Property, as is, free of any lien, encumbrance or security interest created by Lessor, or its successors or assigns. Payment of the applicable Early Redemption Value shall occur on the applicable Lease Payment Date specified in Exhibit B hereto, at which time Lessor shall, unless not required hereunder, deliver to Lessee a bill of sale transferring Lessor's interest in the Property to Lessee, as is, free from any lien, encumbrance or security interest created by Lessor, or its successors or assigns. Upon Lessee's actual or constructive payment of the Early Redemption Value and Lessor's actual or constructive delivery of a quitclaim bill of sale covering the Property, this Lease shall terminate except as to obligations or liabilities accruing hereunder prior to such termination.

14. Default and Lessor's Remedies.

(a) The occurrence of one or more of the following events shall constitute an Event of Default, whether occurring voluntarily or involuntarily, by operation of law or pursuant to any order of any court or governmental agency:

- 1) Lessee fails to make any payment hereunder within ten (10) days after its due date;
- 2) Lessee fails to comply with any other covenant, condition or Lease of Lessee hereunder for a period of the ten (10) days after notice thereof;
- 3) Any representation or warranty made by Lessee hereunder shall be untrue in any material respect as of the date made;
- 4) Lessee makes, permits or suffers any unauthorized assignment, transfer or other disposition of this Lease or any interest herein, or any part of the Property or any interest therein; or
- 5) Lessee becomes insolvent; or admits in writing its inability to pay its debts as they mature; or applies for, consents to or acquiesces in the appointment of a trustee, receiver or custodian for the Lessee or a substantial part of its property; or, in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed for Lessee or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, moratorium, or any proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding is instituted by or against Lessee and, if instituted against Lessee, is consented to or acquiesced in by Lessee or is not dismissed within sixty (60) days.

(b) Upon the occurrence of any Event of Default specified herein, Lessor may, at its sole discretion, exercise any or all of the following remedies:

- (1) Enforce this Lease by appropriate action to collect amounts due or to become due hereunder, by acceleration of amounts due during the current fiscal year, or to cause Lessee to perform its other obligations hereunder in which event Lessee shall be liable for all costs and expenses incurred by Lessor;
- (2) Cause all license Leases pertaining to the Property to be terminated and revoked, thereby preventing and prohibiting Lessee's continued use of the Property;
- (3) Repossess and re-take possession, ownership and control of any and all computers, tangible personal property and related Property and furnishings that comprise a portion of the Property and liquidate same and apply the liquidation proceeds, net costs of liquidation, against sums otherwise owing by Lessee to Lessor hereunder; or
- (4) Pursue and exercise any other remedy available at law or in equity, in which event Lessee shall be liable for any and all costs and expenses incurred by Lessor in connection therewith. "Costs and expenses," as that

term is used in this Section 14, shall mean, to the extent allowed by law: (i) reasonable attorneys' fees if this Lease is referred for collection to an attorney not a salaried employee of Lessor or the holder of this Lease; (ii) court costs and disbursements including such costs in the event of any action necessary to secure possession of the Property; and (iii) actual and reasonable out-of-pocket expenses incurred in connection with any repossession or foreclosure, including costs of storing, reconditioning and reselling the Property, subject to the standards of good faith and commercial reasonableness set by the applicable Uniform Commercial Code. Lessee waives all rights under all exemption laws.

15. Assignment. Without Lessor's prior written consent, Lessee will not either (i) assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Lease or the Property or any interest in this Lease or the Property; or (ii) sublet or lend the Property or permit it to be used by anyone other than Lessee, Lessee's employees, or Lessee's customers for County business. Lessor may assign its rights, title and interest in and to this Lease, the Property and any other documents executed with respect to this Lease and/or grant or assign a security interest in this Lease and the Property, in whole or in part. Any such assignees shall have all of the rights of Lessor under this Lease. Subject to the foregoing, this Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto. No assignment or reassignment of any of Lessor's rights, title or interest in this Lease or the Property shall be effective with regard to Lessee unless and until Lessee shall have received a copy of the document by which the assignment or reassignment is made, disclosing the name and address of such assignee. No further action will be required by Lessor or by Lessee to evidence the assignment, but Lessee will acknowledge receipt of such assignments in writing if so required. During the term of this Lease, Lessee shall keep a complete and accurate record of all such assignments in form necessary to comply with the United States Internal Revenue Code of 1986, Section 149 (a), and the regulations, proposed or existing, from time to time promulgated thereunder.

16. Personal Property. Lessee agrees and acknowledges that any and all computers, tangible personal property and related Property and furnishings that comprise a portion of the Property are hereby deemed and considered to comprise personal property.

17. Title to Property. Upon its acceptance of the Property, Lessee shall be deemed and considered to be the owner of all Property and assets that comprise the Property, and shall be deemed to be the license holder of all software and related licenses that comprise the Property during the term of this Lease provided, however, that upon the occurrence of an Event of Default and during the continuation thereof, then title to the licenses and assets that comprise the Property shall be reverted immediately to and in favor of Lessor absent any further action required by either party hereto, and free and clear of any right, title or interest of Lessee therein, unless Lessor elects otherwise, and all license agreements related to the software that comprises the Property shall immediately be terminated, and Lessee shall have no further right to use or access same.

18. Lessor's Right to Perform for Lessee. If Lessee fails to make any payment or perform or comply with any of its covenants or obligations hereunder, Lessor may, but shall not be required to, make such payment or perform or comply with such covenants and obligations on behalf of Lessee, and the amount of any such payment and the expenses (including but not limited to reasonable attorneys' fees) incurred by Lessor in performing or complying with such covenants and obligations, as the case may be, together with interest thereon at the highest lawful rate, shall be payable by Lessee upon demand.

19. Interest on Default. If Lessee fails to pay any Lease Payment specified in Section 1 hereof or any other amount due hereunder within ten (10) days after the due date thereof, Lessee shall pay to Lessor interest on such delinquent payment from the due date until paid at the highest lawful interest rate.

20. Notices. Any notices to be given or to be served upon any party hereto in connection with this Lease must be in writing and may be given by certified or registered mail, and shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail, and if given otherwise shall be deemed to have been given when delivered to and received by the party to whom it is addressed. Such notice shall be given to the parties at their respective addresses designated on the signature page of this Lease or at such other address as either party may hereafter designate.

21. Security Interest. As security for Lessee's covenants and obligations hereunder, Lessee hereby grants to Lessor, and its successors, a security interest in the Property, all accessions thereto and proceeds therefrom, and, in addition to Lessor's rights hereunder, all of the rights and benefits of a secured party under the Uniform Commercial Code as in effect from time to time hereafter in the State in which the Property is located or any other State which may have jurisdiction over the Property. Lessee agrees to execute, acknowledge and deliver to Lessor in recordable form upon request financing statements or any other instruments with respect to the Property or this Lease considered necessary or desirable by Lessor to perfect and continue the security interest granted herein in accordance with the laws of the applicable jurisdiction. As further security therefore, Lessee hereby grants to Lessor a first priority security interest, if applicable, in the proceeds of funding which are deposited into an escrow account prior to disbursement to the vendor, and agrees with respect thereto that Lessor shall have all the rights and remedies of a secured party under the applicable Uniform Commercial Code.

22. Tax Exemption. Lessee acknowledges and agrees that the Lease Payments have been calculated by Lessor assuming that the interest portion of each Lease Payment is exempt from Federal Income Taxation. Lessee will comply with



all applicable provisions of the Internal Revenue Code, including Sections 103 and 148 thereof, and the regulations of the Treasury Department thereunder, from time to time proposed or in effect, in order to maintain the excludability from gross income for federal income tax purposes of the interest component of Lease Payments and will not use or permit the use of the Property in such a manner as to cause this Lease to be a "private activity bond" under Section 141(a) of the Code. Lessee covenants and agrees that it will use the proceeds of this Lease as soon as practicable and with all reasonable dispatch for the purpose for which this Lease has been entered into, and that no part of the proceeds of this Lease shall be invested in any securities, obligations or other investments except for the temporary period pending such use, nor used, at any time, directly or indirectly, in a manner which, if such use had been reasonably anticipated on the date of issuance of this Lease, would have caused any portion of this Lease to be or become "arbitrage bonds" within the meaning of Section 103(b)(2) or Section 148 of the Code and the regulations of the Treasury Department thereunder proposed or in effect at the time of such use and applicable to obligations issued on the date of issuance of the this Lease. The Lessee shall pursuant to Section 149 of the Code maintain a system with respect to this Lease, which tracks the name, and ownership interest of each assignee who has an ownership interest in this Lease.

23. Continuing Disclosure. Specifically and without limitation, Lessee agrees to provide audited financial statements, not later than eight (8) months after and as of the end of each fiscal year. Periodic financial statement shall include a combined balance sheet as of the end of each such period, and a combined statement of revenues, expenditures and changes in fund balances, from the beginning of the then fiscal year to the end of such period, certified as correct by one of Lessee's authorized agents. If Lessee has subsidiaries, the financial statements required will be provided on a consolidated and consolidation basis.

24. Binding Effect; Severability; Survival. This Agreement and the Lease shall not become effective until executed by Lessor, and upon such acceptance and execution shall inure to and bind the parties, their successors, legal representatives and assigns. No provision of this Agreement or the Lease that may be construed as unenforceable shall in any way invalidate any other provision hereof or thereof, all of which shall remain in full force and effect.

25. Miscellaneous.

a) Lessee shall, whenever requested, advise Lessor of the exact location and condition of the Property and shall give the Lessor immediate notice of any attachment or other judicial process affecting the Property, and indemnify and save Lessor harmless from any loss or damage caused thereby. Lessor may, for the purpose of inspection at all reasonable times enter upon any job, building or place where the Property and the books and records of the Lessee with respect thereto are located.

b) Lessee agrees to equitably adjust the Payments payable under this Lease if there is a determination for any reason that the interest payable pursuant to this Lease (as incorporated within the schedule of Payments) is not excludable from income in accordance with the Internal Revenue Code of 1986, as amended, such as to make Lessor and its assigns whole.

c) Time is of the essence. No covenant or obligations hereunder to be performed by Lessee may be waived except by the written consent of Lessor, and a waiver of any such covenant or obligation or a forbearance to invoke any remedy on any occasion shall not constitute or be treated as a waiver of such covenant or obligation as to any other occasion and shall not preclude Lessor from invoking such remedy at any later time prior to Lessee's cure of the condition giving rise to such remedy. Lessor's rights hereunder are cumulative and not alternative.

d) This Lease shall be construed in accordance with, and governed by, the laws of the State in which the Property is located.

e) This Lease constitutes the entire Lease between the parties and shall not be modified, waived, discharged, terminated, amended, altered or changed in any respect except by a written document signed by both Lessor and Lessee.

f) Any term or provision of this Lease found to be prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without, to the extent reasonably possible, invalidating the remainder of this Lease.

g) The Lessor hereunder shall have the right at any time or times, by notice to Lessee, to designate or appoint any person or entity to act as agent or trustee for Lessor for any purposes hereunder.

h) Use of the neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the masculine or feminine gender whenever and wherever appropriate.

i) The captions set forth herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

j) Except as otherwise provided herein, this Lease shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, where permitted by this Lease.

IN WITNESS WHEREOF, the parties have executed this Lease as of the 20<sup>th</sup> day of March in the year 2008.

Lessor: Government Capital Corporation

Marti Harger  
Authorized Signature

Print Name: Marti Harger  
Print Title: Director of Operations

345 Miron Dr.  
Southlake, TX 76092

Attest:  
Patricia Barraco  
Witness Signature

Print Name: PATRICIA BARRACO  
Print Title: Documentation Coordinator

Lessee: Monterey County

[Signature]  
Authorized Signature  
Mike Derr, Purchasing Manager

Attest:  
[Signature]  
Witness Signature

Print Name: Denise Pennell  
Print Title: Clerk of the Board

**EXHIBIT A**  
**DESCRIPTION OF PROPERTY**

MUNICIPAL TECHNOLOGY LEASE-PURCHASE AGREEMENT No. 4854

BY AND BETWEEN

Government Capital Corporation and Monterey County

**PROPERTY DESCRIPTION**

Accela Automation <sup>®</sup> Land Management Server License	1
Accela Automation Land Management Included Named User Licenses	5
Accela Automation Land Management Additional Named User Licenses	145
Accela Citizen Access <sup>™</sup> Server License	1
Accela Citizen Access Use License (Based Upon 410,206 Population)	1
Accela Citizen Access Module Fee	3
Accela Wireless <sup>™</sup> Server License	1
Accela Wireless Included Named User Licenses	5
Accela Wireless Additional Named User Licenses	5
Accela GIS <sup>™</sup> Server License	1
Accela GIS Included Named User Licenses	5
Accela GIS Additional Named User Licenses	145
Accela Service Request <sup>™</sup> Server License	1
Accela Service Request Included Named User Licenses	5
Accela Automation Licensing Server License	1
Accela Automation Licensing Included Named User Licenses	5
Accela IVR <sup>™</sup> Port Licenses (Tier II)	5

Including all related implementation, maintenance, and managed services for the term of this Agreement.

PROPERTY LOCATION:  
168 West Alisal St., 3rd Floor  
Salinas, CA 93901

Exhibit B  
SCHEDULE OF PAYMENTS

MUNICIPAL TECHNOLOGY LEASE-PURCHASE AGREEMENT No. 4854

BY AND BETWEEN

Government Capital Corporation and Monterey County

PMT NO.	PMT DATE MO. DAY YR	TOTAL PAYMENT	TAX-EXEMPT PORTION	Early Redemption Option after print on this line
1	07/01/08	\$357,796.18	\$21,240.75	N/A
2	07/01/09	\$357,796.18	\$61,714.41	N/A
3	07/01/10	\$357,796.18	\$47,363.33	\$679,703.36
4	07/01/11	\$357,796.18	\$32,316.65	\$345,696.80
5	07/01/12	\$357,796.18	\$16,540.66	\$1.00

Total of All Scheduled Payments \$ 1,788,980.90

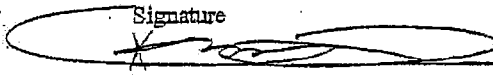
INCUMBENCY, INSURANCE, AND ESSENTIAL USE CERTIFICATES

MUNICIPAL TECHNOLOGY LEASE-PURCHASE AGREEMENT No. 4854

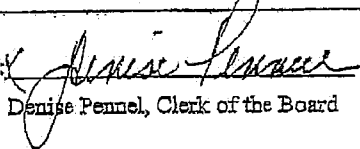
BY AND BETWEEN

Government Capital Corporation and Monterey County

I, Denise Pennel, do hereby certify that I am the duly elected or appointed and acting Clerk of the Board of Monterey County, a political subdivision or agency duly organized and existing under the laws of the State of California, that I have custody of the records of such entity, and that, as of the date hereof, the individual(s) named below are the duly elected or appointed officer(s) of such entity holding the office(s) set forth opposite their respective name(s). I further certify that (i) the signature(s) set opposite their respective name(s) and title(s) are their true and authentic signature(s), and (ii) such officers have the authority on behalf of such entity to enter into that certain Municipal Technology Lease-Purchase Lease dated as of March 25, 2008, between Monterey County and Government Capital Corporation.

Name	Title	Signature
Mike Derr	Purchasing Manager	

IN WITNESS WHEREOF, I have duly executed this certificate hereto this 25<sup>th</sup> day of March, 2008.

BY:   
Denise Pennel, Clerk of the Board

Lessee certifies that it is self-insured or that property and liability insurance have been secured in accordance with the Lease. "Lessor or its Assigns" should be designated as loss payee until Lessee is notified, in writing, to substitute a new loss payee. The following information is only applicable if the Lessee is not self-insured:

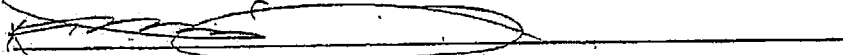
INSURANCE COMPANY/AGENT'S NAME:

INSURANCE COMPANY ADDRESS:

PHONE NUMBER:

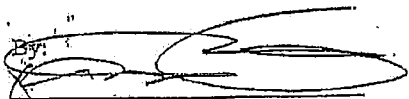
POLICY NUMBER:

I, Mike Derr, Contracts Purchasing Manager of Lessee, do hereby certify that the Property described in Exhibit A to the Lease will be used by the undersigned Lessee for the following purpose:



The undersigned hereby represents that the use of the Property is essential to its proper, efficient and economic operation.

IN WITNESS WHEREOF, I have set my hand this 25<sup>th</sup> day of March, 2008

By: 

Mike Derr, Contracts Purchasing Manager

For Lessee: Monterey County

CERTIFICATE OF ACCEPTANCE

MUNICIPAL TECHNOLOGY LEASE-PURCHASE AGREEMENT No. 4854

BY AND BETWEEN

Government Capital Corporation and Monterey County

1. ACCEPTANCE: Monterey County, as Lessee under that certain MUNICIPAL TECHNOLOGY LEASE-PURCHASE AGREEMENT dated as of March 25, 2008 hereby acknowledges for the purpose of this Agreement, acceptance and/or pre-payment of all of the Property described on the attached Exhibit "A". The Lessee understands that pursuant to the terms and conditions of the Agreement, the Lessee is obligated to make lease Payments commencing July 1, 2008. Lessee hereby certifies that such Property is fully insured in accordance with Section 10 of the Agreement and that such Property constitutes all or a portion of the Property as that term as defined in the Agreement.

2. PROPERTY:

SEE EXHIBIT A to Lease

3. USE: The primary use of the Property is as follows:

4. PROPERTY LOCATION:

Monterey County  
168 West Alisal Street  
Salinas, CA 93901

5. INVOICING: Invoices shall be sent to the following address, including to whose attention invoices should be directed:

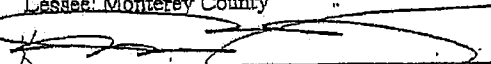
Tim McCormick, Director of Building Services  
Monterey County  
168 West Alisal Street, 2nd Floor  
Salinas, CA 93901

6. INSURANCE: Lessee certifies that property and liability insurance have been secured in accordance with the Lease and such coverage will be maintained in force for the term of the Lease. Lessor will be designated as loss payee until Lessee is notified, in writing, to substitute a new loss payee:

\_\_\_\_ Company Insured  Election to self-insure

ACCEPTED on this the 25th day of March, 2008.

Lessee: Monterey County

  
Mike Derr, Purchasing Manager

TAX AND ARBITRAGE CERTIFICATE  
MUNICIPAL TECHNOLOGY LEASE-PURCHASE LEASE No.4854  
BY AND BETWEEN

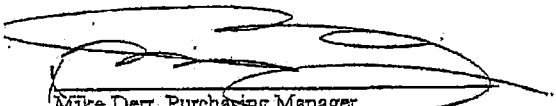
Government Capital Corporation and Monterey County

This Tax and Arbitrage Certificate is executed on this 25<sup>th</sup> day of MARCH, 2008, by the undersigned ("Lessee") and pertains to that Property lease or financing Lease as is more fully described above (the "Lease"). This Certificate is being issued pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") and Treasury Regulation Section 1.103-14 and 1.103-15 (the "Regulations"). Lessee hereby agrees that: (a) proceeds derived from the issuance of the Lease shall only be used to acquire Property that has a governmental purpose and will not be used to acquire Property that will benefit any private business activity; (b) proceeds derived from the issuance of the Lease shall never be invested in instruments yielding an interest rate return in excess of the rate of interest set forth in the Lease; (c) proceeds derived from the issuance of the Lease shall be fully and completely expended for their anticipated purpose within one year from the date of the Lease; (d) proceeds derived from the issuance of the Lease shall not be used to finance any acquisition other than the purchase of that Property identified in the Lease along with related costs and costs of issuance; (e) the repayment of the Lease is not guaranteed directly or indirectly by the federal government; (f) Lessee shall execute a Form 8038-G and allow for such to be filed of record with the Internal Revenue Service; (g) the Lease is in registered form and that the Lessee shall maintain a record regarding the ownership of the Lease and the payment of all sums payable under the Lease; (h) the proceeds derived from the issuance of the Lease are not in excess of the sum required in order to acquire the property that is the subject of the Lease and to fund the costs associated with the issuance of the Lease; (i) Lessee does not currently contemplate the sale or disposition of the Property that is the subject of the Lease prior the expiration of the Lease's payment terms; and (j) the Lessee shall otherwise abide by all applicable rules and regulations related to the issuance of the Lease.

To the best of the knowledge and belief of the undersigned, the expectations as set forth above, are reasonable; and there are no present facts, estimates, and circumstances which would change the foregoing expectations. Lessee has not been notified of the listing, or proposed listing of it, by the Internal Revenue Service as an Issuer whose arbitrage certificates may not be relied upon.

Executed on the date first referenced above.

Lessee: Monterey County

  
Mike Derr, Purchasing Manager

**Before the Board of Supervisors in and for the  
County of Monterey, State of California**

**Resolution No: 08 – 099**

A Resolution To Create Article XXVI (Special Land Use Fees) Of The County )  
Master Fee Resolution To Add A Six Percent Information Systems Technology )  
Surcharge Fee To All Fees for Land Use Applications, Construction Permits )  
and Code Enforcement Activities In The Building Services Department And )  
Planning Department For the Period From July 1, 2008 Through June 30, 2013. )  
(PD080216/ACCELA Contract and Fees) )

This Resolution is made with reference to the following facts:

1. State law allows the County, after noticed public hearing, to adopt a resolution adopting or amending fees for processing applications for various land use permits and entitlements, provided the fees do not exceed the estimated reasonable cost of providing the service for which the fee is charged.
2. Section 1.40.010 of Chapter 1.40 of the Monterey County Code provides that all fees, penalties, refunds, reimbursements, and charges of any kind by the County may be specified in the Monterey County Fee Resolution.
3. The Board of Supervisors held a duly noticed public hearing to consider the proposed adjustments to the land use fees. Notice of this matter was provided by publication of notices of public hearing in newspapers of local circulation in the County, and all testimony from staff and the public has been heard and considered.
4. The Board of Supervisors is authorizing the purchase of a new software system for land use permitting, information management and customer services to improve services and management of processes related to land use applications, construction permits and related code enforcement activities.
5. The cost of providing the purchase of the information system technology is known to be \$1,791,726.95 for the term March 31, 2008 through December 31, 2012. Based on projected revenues in the Building Services Department and the Planning Department, an increase of six percent to County's land use applications, construction permits and related code enforcement activities is estimated to recover the cost of this service over the next five years.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. Article XXVI (Special Land Use Fees), attached hereto as Exhibit A and incorporated herein by reference is hereby created and adopted as part of the Monterey County Master Fee Resolution to establish an additional six percent surcharge to land use applications, construction permits and related code enforcement activities fees in the Building Services



Department and Planning Department for the purchase of information system technologies; and

2. Article XXVI shall be effective on July 1, 2008, which will be more than sixty days following adoption of this resolution as required by state law.

PASSED AND ADOPTED on this 25<sup>th</sup> day of March, upon motion of Supervisor Potter, seconded by Supervisor Salinas, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Mettee-McCutchon, Potter

NOES: None

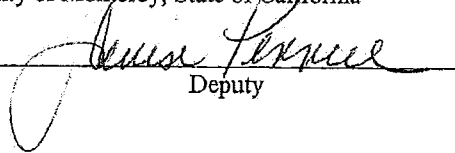
ABSENT: None

I, Denise Pennell, Interim Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 74 for the meeting on March 25, 2008.

Dated: March 25, 2008

Denise Pennell, Interim Clerk of the Board of Supervisors  
County of Monterey, State of California

By

  
Deputy

## **ARTICLE XXVI**

### **SPECIAL LAND USE FEES**

#### **SECTION 1. BUILDING SERVICES DEPARTMENT FEES**

1. Technology Surcharge Fee: All Building Services Department fees for permitting, plan review, construction inspections and code enforcement activities for the period of July 1, 2008 through June 30, 2013 shall include an additional six percent surcharge for the purchase of information system technologies.

#### **SECTION 2. PLANNING DEPARTMENT FEES**

1. Technology Surcharge Fee: All Planning Department fees for the processing of land use permits and entitlements and related fees as set forth in Article IX of the Monterey County Master Fee resolution for the period of July 1, 2008 through June 30, 2013 shall include an additional six percent surcharge for the purchase of information system technologies.

#### **SECTION 3. PERIOD OF OPERATION**

1. Effective Dates. This article shall expire on June 30, 2013.

5-4

**Before the Board of Supervisors in and for the  
County of Monterey, State of California**

**Agreement No: A – 11132**

- a. Authorize the Purchasing Manager for Monterey County to execute an agreement with Accela, Inc. for professional services to implement, host, and maintain the Accela Automation software product for land use permits, information management and customer service functions in an amount not to exceed \$1,791,726.95 for the term March 31, 2008 through December 31, 2012 and to execute up to two one year extensions of this Agreement;
- b. Authorize the Purchasing Manager for Monterey County to execute an Agreement with Government Capital Corporation, a Texas corporation, for the closed end lease-purchase of the Accela Automation software product in an amount not to exceed \$1,791,726.95 for the term March 31, 2008 through December 31, 2012; and
- c. Adopt the attached resolution to create Article XXVI (Special Land Use Fees) of the County Master Fee Resolution to add a Six Percent Information Systems Technology surcharge fee to all fees for Land Use Applications, Construction Permits and Code Enforcement Activities in the Building Services Department and Planning Department for the period from July 1, 2008 through June 30, 2013.  
(Agreement - PD080216/County Master Fee Resolution, County-wide)

Upon motion of Supervisor Potter, seconded by Supervisor Salinas, and carried by those members present, the Board of Supervisors hereby:

- a. Authorize the Purchasing Manager for Monterey County to execute an agreement with Accela, Inc. for professional services to implement, host, and maintain the Accela Automation software product for land use permits, information management and customer service functions in an amount not to exceed \$1,791,726.95 for the term March 31, 2008 through December 31, 2012 and to execute up to two one year extensions of this Agreement;
- b. Authorize the Purchasing Manager for Monterey County to execute an Agreement with Government Capital Corporation, a Texas corporation, for the closed end lease-purchase of the Accela Automation software product in an amount not to exceed \$1,791,726.95 for the term March 31, 2008 through December 31, 2012; and
- c. Adopt the attached resolution to create Article XXVI (Special Land Use Fees) of the County Master Fee Resolution to add a Six Percent Information Systems Technology surcharge fee to all fees for Land Use Applications, Construction Permits and Code Enforcement Activities in the Building Services Department and Planning Department for the period from July 1, 2008 through June 30, 2013.  
(Agreement - PD080216/County Master Fee Resolution, County-wide)

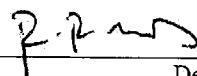
PASSED AND ADOPTED this 25th day of March, 2008, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Mettee-McCutchon, Potter  
NOES: None  
ABSENT: None

I, Denise Pennell, Interim Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 74 for the meeting on March 25, 2008.

Dated: March 25, 2008

Denise Pennell, Interim Clerk of the Board of Supervisors  
County of Monterey, State of California

By   
Deputy

This page intentionally left blank.

# Amendment No. 1

This page intentionally left blank.

**AMENDMENT NO. 1  
TO THE AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
ACCELA, INC.**

**THIS AMENDMENT NO. 1** to the Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Accela, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the "Parties") as of the last date opposite the respective signatures.

**WHEREAS**, CONTRACTOR entered into an Agreement with County on March 25, 2008 (hereinafter, "Agreement"); and

**WHEREAS**, all tasks have been completed for the implementation, hosting and maintenance of the Accela Automation Software product; and

**WHEREAS**, additional time is necessary to allow County Staff adequate time to work with CONTRACTOR to define and finalize costs associated with additional professional services to be provided to continue to host and maintain the Accela Automation Software product for a continued term; and

**WHEREAS**, the Parties wish to further amend the Agreement to extend the term to March 31, 2013 with no associated dollar amount increase.

**NOW, THEREFORE**, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Section 2.0, "Term of Agreement", to read as follows:

The initial term shall commence March 31, 2008 through and including March 31, 2013.

2. Amend the first sentence of Attachment B, "Hosting Agreement", in Section 2.0, "System Administration and Security", to read as follows:

From the effective date of the AGREEMENT through March 31, 2013, the Hosted Applications will be hosted by CONTRACTOR on CONTRACTOR-owned equipment at a physically secure commercial hosting facility with responsibility assumed by CONTRACTOR.

3. All other terms and conditions of the Agreement remain unchanged and in full force.

Amendment No. 1 to the Agreement  
Accela, Inc.  
Implementation, Hosting and Maintenance of the Accela Automation Software Product  
RMA – Planning and Building Services Department  
Term: March 31, 2008 – March 31, 2013  
Not to Exceed: \$1,791,726.95

4. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Agreement as of the last date opposite the respective signatures below:

**COUNTY OF MONTEREY**

**CONTRACTOR\***

By: [Signature]  
Contracts/Purchasing Officer

Accela, Inc.  
Contractor's Business Name

Date: 1-2-13

By: [Signature]  
(Signature of Chair, President or Vice President)

Its: Julian D. Munoz, V.P. Procurement  
(Print Name and Title)

**Approved as to Form and Legality  
Office of the County Counsel**

Date: December 17, 2012

By: [Signature]  
Deputy County Counsel

By: [Signature]  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)

Date: 12-21-12

Its: Colin M. Samuels, Asst. Secretary  
(Print Name and Title)

**Approved as to Fiscal Provisions**

Date: December 17, 2012

By: \_\_\_\_\_  
Auditor/Controller

Date: \_\_\_\_\_

**Approved as to Indemnity and Insurance Provisions**

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

\*INSTRUCTIONS: IF CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

JAN 02 2013

Amendment No. 1 to the Agreement  
Accela, Inc.  
Implementation, Hosting and Maintenance of the Accela Automation Software Product  
RMA - Planning and Building Services Department  
Term: March 31, 2008 - March 31, 2013  
Not to Exceed: \$1,791,726.95





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
7/19/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER License # 0754591</b> <b>Costello &amp; Sons Insurance Brokers, Inc.</b> 1752 Lincoln Avenue San Rafael, CA 94901		<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): <b>(415) 257-2100</b>		FAX (A/C, No): <b>(415) 455-1516</b>	
		E-MAIL ADDRESS:			
		INSURER(S) AFFORDING COVERAGE			NAIC #
		INSURER A : <b>The Hartford</b>			<b>22357</b>
<b>INSURED</b>  <b>Accela Inc.</b> <b>2633 Camino Ramon, Suite 120</b> <b>San Ramon, CA 94583</b>		INSURER B : <b>Lloyd's of London</b>			
		INSURER C :			
		INSURER D :			
		INSURER E :			
		INSURER F :			

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X		57UUNPC6417	7/1/2012	7/1/2013	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>1,000,000</b> MED EXP (Any one person) \$ <b>10,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b>
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			57UUNPC6417	7/1/2012	7/1/2013	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ <b>10,000</b>			57RHUPC6184	7/1/2012	7/1/2013	EACH OCCURRENCE \$ <b>10,000,000</b> AGGREGATE \$ <b>10,000,000</b>
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	57WEZX9448	7/1/2012	7/1/2013	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ <b>1,000,000</b> E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b> E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>
B	Technology E&O			SEN201136825	7/1/2012	7/1/2013	Each Claim <b>5,000,000</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
 Certificate holder is named as additional insured with regards to liability arising out of the named insureds operations and as required by written contract. Policy provisions afford named insured a 30-day notice of cancellation.

<b>CERTIFICATE HOLDER</b>  Monterey County, California 168 West Alisal Street, 2nd Fl Salinas, CA 93901		<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE <i>Jessy Sathay</i>	
---	--	---	--

4. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as fully set forth in the Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Agreement as of the last date opposite the respective signatures below:

**COUNTY OF MONTEREY**

**CONTRACTOR\***

By: [Signature]  
Contracts/Purchasing Officer

Accela, Inc.  
Contractor's Business Name

Date: 1-2-13

By: [Signature]  
(Signature of Chair, President or Vice President)

Its: Julian D. Munoz, V.P. Procurement  
(Print Name and Title)

**Approved as to Form and Legality  
Office of the County Counsel**

Date: December 17, 2012

By: [Signature]  
Deputy County Counsel

By: [Signature]  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)

Date: 12-21-12

Its: Colin M. Samuels, Asst. Secretary  
(Print Name and Title)

**Approved as to Fiscal Provisions**

Date: December 17, 2012

By: [Signature]  
Auditor/Controller

Date: 12/18/12

**Approved as to Indemnity and Insurance Provisions**

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

\*INSTRUCTIONS: IF CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

JAN 02 2013 K

Amendment No. 1 to the Agreement  
Accela, Inc.  
Implementation, Hosting and Maintenance of the Accela Automation Software Product  
RMA - Planning and Building Services Department  
Term: March 31, 2008 - March 31, 2013  
Not to Exceed: \$1,791,726.95



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/19/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0754591 Costello & Sons Insurance Brokers, Inc. 1752 Lincoln Avenue San Rafael, CA 94901	CONTACT NAME: PHONE (A/C, No, Ext): (415) 257-2100 FAX (A/C, No): (415) 455-1516	
	E-MAIL ADDRESS:	
INSURED  Accela Inc. 2633 Camino Ramon, Suite 120 San Ramon, CA 94583	INSURER(S) AFFORDING COVERAGE INSURER A : The Hartford INSURER B : Lloyd's of London INSURER C : INSURER D : INSURER E : INSURER F :	NAIC # 22357

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY	X		57UUNPC6417	7/1/2012	7/1/2013	EACH OCCURRENCE \$ 1,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 10,000	
							PERSONAL & ADV INJURY \$ 1,000,000	
							GENERAL AGGREGATE \$ 2,000,000	
GEN'L AGGREGATE LIMIT APPLIES PER:							PRODUCTS - COMP/OP AGG \$ 2,000,000	
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						\$	
A	AUTOMOBILE LIABILITY			57UUNPC6417	7/1/2012	7/1/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000	
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$	
	<input type="checkbox"/> ALL OWNED AUTOS						<input type="checkbox"/> SCHEDULED AUTOS	BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS						<input checked="" type="checkbox"/> NON-OWNED AUTOS	PROPERTY DAMAGE (Per accident) \$
								\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB	<input checked="" type="checkbox"/> OCCUR		57RHUPC6184	7/1/2012	7/1/2013	EACH OCCURRENCE \$ 10,000,000	
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE					AGGREGATE \$ 10,000,000	
	<input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000						\$	
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		Y/N	57WEZX9448	7/1/2012	7/1/2013	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						N/A	E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below							E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
								E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Technology E&O			SEN201136825	7/1/2012	7/1/2013	Each Claim 5,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Certificate holder is named as additional insured with regards to liability arising out of the named insureds operations and as required by written contract. Policy provisions afford named insured a 30-day notice of cancellation.

## CERTIFICATE HOLDER

## CANCELLATION

Monterey County, California  
 168 West Alisal Street, 2nd Fl  
 Salinas, CA 93901

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE





**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)**

This policy is subject to the following additional Conditions:

- A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B. If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

This SPECIAL MULTI-FLEX POLICY is provided by the stock insurance company(s) of The Hartford Insurance Group, shown below.

**COMMON POLICY DECLARATIONS**



POLICY NUMBER: 57 UUN PC6417 DE  
RENEWAL OF: 57 UUN PC6417

Named Insured and Mailing Address:  
(No., Street, Town, State, Zip Code)

ACCELA, INC.  
SEE IH1204  
2633 CAMINO RAMON STE 120  
SAN RAMON, CA 94583  
(CONTRA COSTA COUNTY)

Policy Period: From 07/01/12 To 07/01/13

12:01 A.M., Standard time at your mailing address shown above.

In return for the payment of the premium, and subject to all of the terms of this policy, we agree with you to provide insurance as stated in this policy. The Coverage Parts that are a part of this policy are listed below. The Advance Premium shown may be subject to adjustment.

**Total Advance Premium:**

**Coverage Part and Insurance Company Summary**

**Advance Premium**

IN RECOGNITION OF THE MULTIPLE COVERAGES INSURED WITH THE HARTFORD, YOUR POLICY PREMIUM INCLUDES AN ACCOUNT CREDIT.

PROPERTY CHOICE  
HARTFORD CASUALTY INSURANCE COMPANY  
HARTFORD PLAZA  
HARTFORD, CT 06115

LISTING OF ADDITIONAL COVERAGE PARTS CONTINUED ON THE FOLLOWING PAGE.

Form Numbers of Coverage Parts, Forms and Endorsements that are a part of this policy and that are not listed in the Coverage Parts.

HM0001 HM00100107SD4 IL00171198 IH09850312 IH12040312 IH99400409  
IH99410409 IL00210908 IL01410908 IL02700811 PC00010109 HA00250204  
HC00100798 HC00200295

Agent/Broker Name: COSTELLO & SONS INS BROKERS INC

Countersigned by  
(Where required by law)

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Date



# QUICK REFERENCE COMMERCIAL GENERAL LIABILITY COVERAGE PART OCCURRENCE

**READ YOUR POLICY CAREFULLY**

**DECLARATIONS PAGES**

- Named Insured and Mailing Address
- Policy Period
- Description of Business and Location
- Coverages and Limits of Insurance

Beginning on Page

**SECTION I - COVERAGES**

Coverage A -	Insuring Agreement .....	1
Bodily Injury and Property Damage Liability	Exclusions .....	2
Coverage B -	Insuring Agreement .....	5
Personal and Advertising Injury Liability	Exclusions .....	6
Coverage C -	Insuring Agreement .....	7
Medical Payments	Exclusions .....	8
Supplementary Payments Coverages A And B .....		8

<b>SECTION II - WHO IS AN INSURED</b> .....	9
---	---

<b>SECTION III - LIMITS OF INSURANCE</b> .....	12
--	----

<b>SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS</b> .....	13
---	----

Bankruptcy .....	13
Duties in The Event Of Occurrence, Offense, Claim or Suit .....	13
Legal Action Against Us .....	13
Other Insurance .....	14
Premium Audit .....	15
Representations .....	15
Separation of Insureds .....	15
Transfer of Rights of Recovery Against Others To Us .....	15
When We Do Not Renew .....	15

<b>SECTION V - DEFINITIONS</b> .....	15
--------------------------------------	----

**COMMON POLICY CONDITIONS**

- Cancellation
- Changes
- Examination of Your Books and Records
- Inspections and Surveys
- Premiums
- Transfer of Your Rights and Duties under this Policy

**ENDORSEMENTS**

These form numbers are shown on the Coverage Part - Declarations Page or on the Common Policy Declarations Page.

**COMMERCIAL GENERAL LIABILITY  
COVERAGE PART - DECLARATIONS**



**POLICY NUMBER: 57 JUN PC6417**

This COMMERCIAL GENERAL LIABILITY COVERAGE PART consists of:

- A. This Declarations;
- B. Commercial General Liability Schedule;
- C. Commercial General Liability Coverage Form; and
- D. Any Endorsements issued to be a part of this Coverage Part and listed below.

**LIMITS OF INSURANCE**

The Limits of Insurance, subject to all the terms of this Policy that apply, are:

Each Occurrence Limit	\$1,000,000
Damage to Premises Rented to You Limit - Any One Premises	\$300,000
Medical Expense Limit - Any One Person	\$10,000
Personal and Advertising Injury Limit	\$1,000,000
General Aggregate Limit, (other than Products-Completed Operations)	\$2,000,000
Products-Completed Operations Aggregate Limit	\$2,000,000

**ADVANCE PREMIUM:**

**AUDIT PERIOD: ANNUAL AUDIT**

Except in this Declarations, when we use the word "Declarations" in this Coverage Part, we mean this "Declarations" or the "Common Policy Declarations."

Form Numbers of Coverage Forms, Endorsements and Schedules that are part of this Coverage Part:

HC70010605	CG20100704	CG25020798	HC00881210	HC00971210
HC04361210	HC21231001	HC21960605	HC23700108	HG00010605
HG00681210	HG21020204	CG01861204	CG32340105	HC04141001
HC20311210	HC21900608	HC12101185T		
IH12011185	FORM: HC 20 31 1210 ADDITIONAL PERSONS OR ORGANIZATIONS DESIGNATED AS NAMED INSUREDS			
IH12011185	FORM: CG2010 0704 ADDITIONAL INSURED-OWNERS, LESSEES OR CONTRACTORS-SCHEDULED PERSON OR ORGANIZATION			



COMMERCIAL GENERAL LIABILITY  
COVERAGE PART - DECLARATIONS (Continued)

POLICY NUMBER: 57 UUN PC6417

Form Numbers of Coverage Forms, Endorsements and Schedules that are part of this Coverage Part: (Continued )

IH12011185 FORM: HC2030 1210  
ADDITIONAL PERSONS OR ORGANIZATIONS  
DESIGNATED AS NAMED INSURED  
IH12011185 FORM: CG2010 0704 ADDITIONAL INSURED-OWNERS,  
LESSEES OR CONTRACTORS-SCHEDULED PERSON OR  
ORGANIZATION



## COMMERCIAL GENERAL LIABILITY COVERAGE FORM

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 "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

### SECTION I – COVERAGES

#### COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

##### 1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and

(2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

b. This insurance applies to "bodily injury" and "property damage" only if:

(1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(2) The "bodily injury" or "property damage" occurs during the policy period; and

(3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

(1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

##### e. Incidental Medical Malpractice

(1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:

(a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and

(b) You are not engaged in the business or occupation of providing such services.

- (2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

## 2. Exclusions

This insurance does not apply to:

### a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

### b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
  - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

### c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

### d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

### e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or
  - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

### f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
  - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
    - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
    - (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
  - (i) Any insured; or
  - (ii) Any person or organization for whom you may be legally responsible;
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
  - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
  - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
  - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
  - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
  - (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

**g. Aircraft, Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 51 feet long; and
  - (b) Not being used to carry persons for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment"; or
- (6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

**h. Mobile Equipment**

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

**i. War**

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) 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
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**j. Damage To Property**

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors

working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" arising from the use of elevators.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at the job site.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

**k. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**l. Damage To Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

**m. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**n. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

If such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**o. Personal And Advertising Injury**

"Bodily injury" arising out of "personal and advertising injury".

**p. Electronic Data**

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

**q. Employment-Related Practices**

"Bodily injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**r. Asbestos**

- (1) "Bodily injury" or "property damage" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
  - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or

kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";

- (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
- (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

**Damage To Premises Rented To You – Exception For Damage By Fire, Lightning Or Explosion**

Exclusions c. through h. and j. through n. do not apply to damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

**COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**

**1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

## 2. Exclusions

This insurance does not apply to:

### a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" arising out of an offense committed by, at the direction or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

### b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity.

### c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period.

### d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

### e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

### f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement".

### g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

### h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services.

### i. Infringement Of Intellectual Property Rights

"Personal and advertising injury" arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of:

- (1) Copyright;

- (2) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

- (3) Title of any literary or artistic work.

### j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 17.a., b. and c. of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting.

### k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

### l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

### m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

### n. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

**o. War**

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) 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
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**p. Internet Advertisements And Content Of Others**

"Personal and advertising injury" arising out of:

- (1) An "advertisement" for others on your web site;
- (2) Placing a link to a web site of others on your web site;
- (3) Content, including information, sounds, text, graphics, or images from a web site of others displayed within a frame or border on your web site; or
- (4) Computer code, software or programming used to enable:
  - (a) Your web site; or
  - (b) The presentation or functionality of an "advertisement" or other content on your web site.

**q. Right Of Privacy Created By Statute**

"Personal and advertising injury" arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act.

**r. Violation Of Anti-Trust law**

"Personal and advertising injury" arising out of a violation of any anti-trust law.

**s. Securities**

"Personal and advertising injury" arising out of the fluctuation in price or value of any stocks, bonds or other securities.

**t. Discrimination Or Humiliation**

"Personal and advertising injury" arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

**u. Employment-Related Practices**

"Personal and advertising injury" to:

- (1) A person arising out of any "employment-related practices"; or

- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**v. Asbestos**

- (1) "Personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
  - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
  - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
  - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

**COVERAGE C MEDICAL PAYMENTS**

**1. Insuring Agreement**

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations;

provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within three years of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.



- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
  - (1) First aid administered at the time of an accident;
  - (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
  - (3) Necessary ambulance, hospital, professional nursing and funeral services.

**2. Exclusions**

We will not pay expenses for "bodily injury":

**a. Any Insured**

To any insured, except "volunteer workers".

**b. Hired Person**

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

**c. Injury On Normally Occupied Premises**

To a person injured on that part of premises you own or rent that the person normally occupies.

**d. Workers Compensation And Similar Laws**

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

**e. Athletics Activities**

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

**f. Products-Completed Operations Hazard**

Included within the "products-completed operations hazard".

**g. Coverage A Exclusions**

Excluded under Coverage A.

**SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**

- 1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

- e. All costs taxed against the insured in the "suit".
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:

- (1) Agrees in writing to:

- (a) Cooperate with us in the investigation, settlement or defense of the "suit";
- (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
- (c) Notify any other insurer whose coverage is available to the indemnitee; and
- (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

- (2) Provides us with written authorization to:

- (a) Obtain records and other information related to the "suit"; and
- (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee,

necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverage A – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's Indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

## SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

### a. Employees and Volunteer workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services, Paragraph (d) does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by,
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

### b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

### c. Temporary Custodians of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

### d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will

have all your rights and duties under this Coverage Part.

**e. Unnamed Subsidiary**

Any subsidiary, and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of the Coverage Part.

The insurance afforded herein for any subsidiary not named in this Coverage Part as a named insured does not apply to injury or damage with respect to which an insured under this Coverage Part is also an insured under another policy or would be an insured under such policy but for its termination or the exhaustion of its limits of insurance.

**3. Newly Acquired or Formed Organization**

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

**4. Mobile Equipment**

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

**5. Nonowned Watercraft**

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

**6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit**

The following person(s) or organization(s) are an additional insured when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement.

A person or organization is an additional insured under this provision only for that period of time required by the contract or agreement.

However, no such person or organization is an insured under this provision if such person or organization is included as an insured by an endorsement issued by us and made a part of this Coverage Part.

**a. Vendors**

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
  - (i) The exceptions contained in Sub-paragraphs (d) or (f); or
  - (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

**b. Lessors of Equipment**

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.
- (2) With respect to the insurance afforded to these additional insureds this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

**c. Lessors of Land or Premises**

Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

With respect to the insurance afforded these additional insureds the following additional exclusions apply:

This insurance does not apply to:

- 1. Any "occurrence" which takes place after you cease to lease that land; or
- 2. Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**d. Architects, Engineers or Surveyors**

Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (1) In connection with your premises; or
- (2) In the performance of your ongoing operations performed by you or on your behalf.

With respect to the insurance afforded these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

- 1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- 2. Supervisory, inspection, architectural or engineering activities.

**e. Permits Issued By State Or Political Subdivisions**

Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

With respect to the insurance afforded these additional insureds, this insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

**f. Any Other Party**

Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (1) In the performance of your ongoing operations;
- (2) In connection with your premises owned by or rented to you; or
- (3) In connection with "your work" and included within the "products-completed operations hazard", but only if
  - (a) The written contract or agreement requires you to provide such coverage to such additional insured; and
  - (b) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds under this provision is described in Section III – Limits Of Insurance.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in Section IV – Commercial General Liability Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

**SECTION III – LIMITS OF INSURANCE**

**1. The Most We will Pay**

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or

- c. Persons or organizations making claims or bringing "suits".

**2. General Aggregate Limit**

The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.

**3. Products-Completed Operations Aggregate Limit**

The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

**4. Personal and Advertising Injury Limit**

Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

**5. Each Occurrence Limit**

Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
- b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".

**6. Damage To Premises Rented To You Limit**

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

**7. Medical Expense Limit**

Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

**8. How Limits Apply To Additional Insureds**

If you have agreed in a written contract or written agreement that another person or organization be

added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- a. The limits of Insurance specified in the written contract or written agreement; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

#### **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**

##### **1. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

##### **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit**

###### **a. Notice Of Occurrence Or Offense**

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

###### **b. Notice Of Claim**

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.

###### **c. Assistance And Cooperation Of The Insured**

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

###### **d. Obligations At The Insureds Own Cost**

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

###### **e. Additional Insureds Other Insurance**

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

###### **f. Knowledge Of An Occurrence, Offense, Claim Or Suit**

Paragraphs a. and b. apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This duty applies separately to you and any additional insured.

##### **3. Legal Action Against Us**

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or

that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

#### 4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

##### a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

##### b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

###### (1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

###### (2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

###### (3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

###### (4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

###### (5) Property Damage to Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion J. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

###### (6) When You Are Added As An Additional Insured To Other Insurance

Any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

#### (7) When You Add Others As An Additional Insured To This Insurance

Any other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this coverage part.

##### (a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

##### (b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

##### c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

#### 5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

#### 6. Representations

##### a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this policy in reliance upon your representations.

##### b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

#### 7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

#### 8. Transfer Of Rights Of Recovery Against Others To Us

##### a. Transfer of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the

insured will bring "suit" or transfer those rights to us and help us enforce them.

##### b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

#### 9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

#### SECTION V – DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper; or

b. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

- a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or
- b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.



6. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or
- c. All other parts of the world if the injury or damage arises out of:
  - (1) Goods or products made or sold by you in the territory described in a. above;
  - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
  - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory or in a settlement we agree to.

7. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

8. "Employment-Related Practices" means:

- a. Refusal to employ a person;
- b. Termination of a person's employment; or
- c. Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at a person.

9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

- a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
- b. Your fulfilling the terms of the contract or agreement.

12. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while

rented to you or temporarily occupied by you with permission of the owner is subject to the Damage to Premises Rented To You Limit described in Section III – Limits of Insurance;

- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

However, Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

14. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

- b. While it is in or on an aircraft, watercraft or "auto"; or
  - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered; but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  - b. Vehicles maintained for use solely on or next to premises you own or rent;
  - c. Vehicles that travel on crawler treads;
  - d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
    - (1) Power cranes, shovels, loaders, diggers or drills; or
    - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
  - e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
    - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
    - (2) Cherry pickers and similar devices used to raise or lower workers;
  - f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.
 

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

    - (1) Equipment, of at least 1,000 pounds gross vehicle weight, designed primarily for:
      - (a) Snow removal;
      - (b) Road maintenance, but not construction or resurfacing; or
      - (c) Street cleaning;
    - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
    - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
  - b. Malicious prosecution;
  - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
  - d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - e. Oral, written or electronic publication of material that violates a person's right of privacy;
  - f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";
  - g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or
  - h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.
18. "Pollutants" mean 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.
19. "Products-completed operations hazard":
- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
    - (1) Products that are still in your physical possession; or
    - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
      - (a) When all of the work called for in your contract has been completed.
      - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
      - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.
- Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

20. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

As used in this definition, computerized or electronically stored data, programs or software are not tangible property. Electronic data means information, facts or programs:

- a. Stored as or on;
- b. Created or used on; or
- c. Transmitted to or from;

computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

23. "Volunteer worker" means a person who

- a. Is not your "employee";
- b. Donates his or her work;
- c. Acts at the direction of and within the scope of duties determined by you; and
- d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "Your product":

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
  - (a) You;
  - (b) Others trading under your name; or
  - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and
- (2) The providing of or failure to provide warnings or instructions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## POLICY CHANGES

This endorsement forms a part of the Policy numbered below:

**POLICY NUMBER:** 57 UUN PC6417 DE

**CHANGE NUMBER:** 004

**Policy Change Effective Date:** 08/13/12

**Named Insured:** ACCELA, INC.

SEE IH1204

**Producer's Name:** COSTELLO & SONS INS BROKERS INC

**Pro Rata Factor:** .882

**Description of Change(s):**

ANY CHANGES IN YOUR PREMIUM WILL BE REFLECTED IN YOUR NEXT BILLING STATEMENT. IF YOU ARE ENROLLED IN REPETITIVE EFT DRAWS FROM YOUR BANK ACCOUNT, CHANGES IN PREMIUM WILL CHANGE FUTURE DRAW AMOUNTS.  
THIS IS NOT A BILL.

NO PREMIUM DUE AT POLICY CHANGE EFFECTIVE DATE.

FORM NUMBERS OF COVERAGE PARTS AND ENDORSEMENTS ADDED TO THIS POLICY AT ENDORSEMENT ISSUE: SEE ABOVE FOR COMPANY NAME

ENTIRE CONTRACT: IH03130611



Countersigned by \_\_\_\_\_  
(Where required by law) Authorized Representative Date



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)**

This policy is subject to the following additional Conditions:

- A.** If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B.** If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

### BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

#### 1. BROAD FORM INSURED

##### A. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

- (1) Any legally incorporated subsidiary in which you own more than 50% of the voting stock on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
- (2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
  - (a) That is a partnership, joint venture or limited liability company
  - (b) That is an "insured" under any other policy,
  - (c) That has exhausted its Limit of Insurance under any other policy, or
  - (d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

##### B. Employees as Insureds

Paragraph A.1. - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add:

- d. Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

##### C. Lessors as Insureds

Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
  - (1) The agreement requires you to provide direct primary insurance for the lessor and
  - (2) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

##### D. Additional Insured if Required by Contract

(1) Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- f. When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

- (1) During the policy period, and
- (2) Subsequent to the execution of such written contract, and
- (3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- (a) The limits of insurance specified in the written contract or written agreement; or
- (b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties In The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - OF SECTION IV - BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

E. Primary and Non-Contributory if Required by Contract

Only with respect to insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

(3) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(4) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (3) and (4) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

2. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:

If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

**3. AMENDED FELLOW EMPLOYEE EXCLUSION**

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

**4. HIRED AUTO PHYSICAL DAMAGE COVERAGE**

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

- (1) \$100,000;
- (2) The actual cash value of the damaged or stolen property at the time of the "loss"; or
- (3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of \$1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

**5. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE**

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$50 per day and a maximum limit of \$1,000.

**6. LOAN/LEASE GAP COVERAGE**

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

**7. AIRBAG COVERAGE**

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

**8. ELECTRONIC EQUIPMENT - BROADENED COVERAGE**

The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

a. Exclusions 4.c. and 4.d. do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto";
- (2) Removable from a housing unit which is permanently installed in or upon the covered "auto";
- (3) An integral part of the same unit housing any electronic equipment described in Paragraphs a. and b. above; or
- (4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.



b. \$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
- (2) Removable from a permanently installed housing unit as described in Paragraph b.(1) above or is an integral part of that equipment; or
- (3) An integral part of such equipment.

c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or \$250, whichever deductible is less.

#### 9. EXTRA EXPENSE - BROADENED COVERAGE

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

#### 10. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

#### 11. TWO OR MORE DEDUCTIBLES

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

- (1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;
- (2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

#### 12. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT,

CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) A member, if you are a limited liability company; or
- (4) An executive officer or insurance manager, if you are a corporation.

#### 13. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

#### 14. HIRED AUTO - COVERAGE TERRITORY

Paragraph e. of GENERAL CONDITIONS 7. - POLICY PERIOD, COVERAGE TERRITORY - of SECTION IV - BUSINESS AUTO CONDITIONS is replaced by the following:

e. For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

#### 15. WAIVER OF SUBROGATION

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS is amended by adding the following:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

#### 16. RESULTANT MENTAL ANGUISH COVERAGE

The definition of "bodily injury" in SECTION V-DEFINITIONS is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

#### 17. EXTENDED CANCELLATION CONDITION

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

#### 18. HYBRID PAYMENT COVERAGE

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

- a. If the auto is replaced with a "hybrid" auto, we will pay an additional 10%, to a maximum of \$2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less,
- b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"

c. Regardless of the number of autos damaged in any one "loss", the most we will pay under this Hybrid Payment Coverage provision for any one "loss" is \$10,000.

For the purposes of the coverage provision,

- a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto.
- b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

## Amendment No. 2

**This page intentionally left blank.**

**AMENDMENT NO. 2  
TO THE AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
ACCELA, INC.**

**THIS AMENDMENT NO. 2** to the Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Accela, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the "Parties") as of the last date opposite the respective signatures below.

**WHEREAS**, CONTRACTOR entered into an Agreement with County on March 25, 2008 (hereinafter, "Agreement"); and

**WHEREAS**, Agreement was amended by the Parties on January 2, 2013 (hereinafter, "Amendment No. 1"); and

**WHEREAS**, all tasks have been completed for the implementation, hosting and maintenance of the Accela Automation Software product; and

**WHEREAS**, additional services associated with annual program maintenance, managed hosting and post-implementation services associated with unforeseen maintenance and modifications are required for the Accela Automation Software product; and

**WHEREAS**, the Parties wish to further amend the Agreement to increase the amount by \$623,742.54 and extend the term to March 30, 2016 to continue to provide tasks identified in the Agreement and as amended by this Amendment No. 2.

**NOW, THEREFORE**, the Parties agree to amend the Agreement as follows:

1. Amend Paragraph 2, "Performance of the Agreement", by adding "Exhibit A-1, Scope of Services for Accela Automation Maintenance (Attachment F)".

2. Amend the first and second sentence of Section 2.0, "Term of Agreement", to read as follows:

The initial term shall commence March 31, 2008 through and including March 30, 2016. County may elect to extend this AGREEMENT on an "as needed" basis to allow for maintenance and modifications to the Accela Automation software product.

3. Amend Item 4.1 of Section 4.0, "Compensation and Payments", by adding "4.1.4, Exhibit A-1 within Attachment F".

Amendment No. 2 to the Agreement  
Accela, Inc.  
Implementation, Hosting and Maintenance of the Accela Automation Software Product  
RMA - Planning and Building Services Department  
Term: March 31, 2008 - March 30, 2016  
Not to Exceed: \$2,415,469.49

4. Amend Item 4.2 of Section 4.0, "Compensation and Payments", to read as follows:

The total of this AGREEMENT shall not exceed \$2,415,469.49 during the term of the AGREEMENT.

5. Amend the first sentence in Section 2.0, "System Administration and Security" of Attachment B, "Hosting Agreement", to read as follows:

From the effective date of the AGREEMENT through March 30, 2016, the Hosted Applications will be hosted by CONTRACTOR on CONTRACTOR-owned equipment at a physically secure commercial hosting facility with responsibility assumed by CONTRACTOR.

6. Amend Section 5.0, "Hosting Fee", of Attachment B, "Hosting Agreement", to read as follows:

In exchange for the Hosting Services described hereinabove, County shall pay CONTRACTOR, over the initial term of the contract (5 years) in the amount of \$375,000.00 and the extended term of the contract (3 years) in the amount of \$239,884.90, for a total Hosting Fee not to exceed a total of \$614,884.90.

7. Amend Section 1.0, "Professional Services", of Attachment C, "Services Agreement", to read as follows:

CONTRACTOR shall provide the implementation, data conversation, and/or training services ("Professional Services") described in the Statement of Work (SOW) in Attachment A and maintenance and modifications described in Exhibit A-1, Scope of Services/Payment Provisions for Accela Automation Maintenance and Modifications in Attachment F.

8. Amend Item 3.1 in Section 3.0, "Compensation", of Attachment E, "Maintenance Agreement", to read as follows:

Maintenance Fees In exchange for the Maintenance Services described hereinabove, County will pay to CONTRACTOR the amounts indicated in Exhibit A and Exhibit A-1.

9. All other terms and conditions of the Agreement remain unchanged and in full force.

10. This Amendment No. 2 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 2 to the Agreement  
Accela, Inc.  
Implementation, Hosting and Maintenance of the Accela Automation Software Product  
RMA - Planning and Building Services Department  
Term: March 31, 2008 - March 30, 2016  
Not to Exceed: \$2,415,469.49

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Agreement as of the last date opposite the respective signatures below:

COUNTY OF MONTEREY

CONTRACTOR\*

By: [Signature]  
FOI Contracts/Purchasing Officer

Accela, Inc.  
Contractor's Business Name

Date: 3-8-13

By: [Signature]  
(Signature of Chair, President or Vice President)

Its: Julian D. Munoz, V.P. Procurement  
(Print Name and Title)

Date: January 16, 2013

Approved as to Form and Legality  
Office of the County Counsel

By: [Signature]  
Deputy County Counsel

By: [Signature]  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)

Date: 1-24-13

Its: Colin M. Samuels, Asst. Secretary  
(Print Name and Title)

Date: January 16, 2013

Approved as to Fiscal Provisions

By: [Signature]  
Auditor/Controller

Date: 1-22-13

Approved as to Indemnity and Insurance Provisions

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

\*INSTRUCTIONS: IF CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

Amendment No. 2 to the Agreement  
Accela, Inc.  
Implementation, Hosting and Maintenance of the Accela Automation Software Product  
RMA - Planning and Building Services Department  
Term: March 31, 2008 - March 30, 2016  
Not to Exceed: \$2,415,469.49

**EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS  
FOR  
ACCELA AUTOMATION MAINTENANCE AND MODIFICATIONS**

ATTACHMENT F

County of Monterey Proposal  
(Expires March 30, 2013)

The purpose of this Proposal for County of Monterey, California ("County") is to: a) extend maintenance and hosting services for three (3) additional years and to allow the County to relinquish certain software licenses that have been determined are no longer needed in its business operation; and b) set an hourly rate for additional services associated with unforeseen maintenance and modifications.

**A. License Modification, Maintenance and Hosting Term**

1. **Licenses Relinquished** Effective March 30, 2013, County relinquishes its license rights to Accela Licensing™ and Accela IVR™ software applications (the "Applications"), which it licensed from Accela; County will cease all use of the Applications on or before the effective date. Within ten (10) business days from the effective date, County will a) irretrievably delete and/or destroy all instances of the Applications in any and all server and client computers and in any and all backup media owned, controlled, or used by County; b) destroy all physical documentation and physical media received by County from Accela. County's maintenance and hosting obligations for the relinquished licenses will be ended by Accela. No refund or credit will be given for the relinquished licenses or prior year's maintenance or hosting fees.

2. **Deliverables and Compensation** Software maintenance and managed (hosting) services will be extended for a term of three (3) years, commencing March 31, 2013 through March 30, 2016, under the following terms:

Deliverables	Fees
First-Additional Term of Annual Maintenance for Accela Automation® Land Management (150 Named Users)	\$70,348.95
First-Additional Term of Annual Maintenance for Accela Service Request™ (10 Named Users)	\$8,277.94
First-Additional Term of Annual Maintenance for Accela Wireless/Mobile Office™ (10 Named Users)	\$9,312.93
First-Additional Term of Annual Maintenance for Accela Citizen Access™ (Based Upon 410,206 Population)	\$9,150.44
First-Additional Term of Annual Maintenance for Accela GIS™ (150 Named Users)	\$20,047.95
First-Additional Term of Annual Managed Service (Hosting)	\$77,227.15
<b>Total of Fees</b>	<b>\$194,365.36</b>
Second-Additional Term of Annual Maintenance for Accela Automation® Land Management (150 Named Users)	\$72,811.16
Second-Additional Term of Annual Maintenance for Accela Service Request™ (10 Named Users)	\$8,567.67
Second-Additional Term of Annual Maintenance for Accela Wireless/Mobile Office™ (10 Named Users)	\$9,638.88
Second-Additional Term of Annual Maintenance for Accela Citizen Access™ (Based Upon 410,206 Population)	\$9,470.71
Second-Additional Term of Annual Maintenance for Accela GIS™ (150 Named Users)	\$20,749.63
Second-Additional Term of Annual Managed Service (Hosting)	\$79,930.10
<b>Total of Fees</b>	<b>\$208,168.15</b>



**EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS  
FOR  
ACCELA AUTOMATION MAINTENANCE AND MODIFICATIONS**

Third-Additional Term of Annual Maintenance for Accela Automation® Land Management (150 Named Users)	\$75,359.55
Third-Additional Term of Annual Maintenance for Accela Service Request™ (10 Named Users)	\$8,867.54
Third-Additional Term of Annual Maintenance for Accela Wireless/Mobile Office™ (10 Named Users)	\$9,976.24
Third-Additional Term of Annual Maintenance for Accela Citizen Access™ (Based Upon 410,206 Population)	\$9,802.18
Third-Additional Term of Annual Maintenance for Accela GIS™ (150 Named Users)	\$21,475.87
Third-Additional Term of Annual Managed Service (Hosting)	\$82,727.65
<b>Total of Fees</b>	<b>\$208,209.03</b>

First-Additional Term Annual Maintenance and Managed Service fees cover the period of March 31, 2013 through March 30, 2014 and are due on March 31, 2013.

Second-Additional Term Annual Maintenance and Managed Service fees cover the period of March 31, 2014 through March 30, 2015 and are due on March 31, 2014.

Third-Additional Term Annual Maintenance and Managed Service fees cover the period of March 31, 2015 through March 30, 2016 and are due on March 31, 2015.

**TOTAL COST FOR LICENSE MODIFICATION, MAINTENANCE AND HOSTING** **\$603,742.54**

**B. Additional Services**

- The County intends to allocate a not to exceed amount of twenty thousand dollars (\$20,000.00) for additional post-implementation services associated with unforeseen maintenance and modifications. For a period of three (3) years from the effective date of the Amendment, Accela shall provide additional services as may be requested from time-to-time by the County, on a time and materials rate of \$185/hour for services performed in 2013, \$190/hour for services performed in 2014, and \$195/hour for services performed in 2015. As actual services are identified by the County, the parties shall mutually agree upon a statement of work.

**TOTAL COST FOR ADDITIONAL SERVICES** **\$20,000.00**

**C. Payment Provisions**

The total amount of additional services provided under Amendment No. 2 to the Agreement shall not exceed \$623,742.54.

**EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS  
FOR  
ACCELA AUTOMATION MAINTENANCE AND MODIFICATIONS**

**PAYMENT PROVISIONS**

Invoices for maintenance implementation under Amendment No. 2 to the Agreement shall be submitted at the initiation of the maintenance period and shall identify the maintenance period being implemented. Invoices for work products / deliverables shall be submitted when the work product is complete and shall identify the document or work product being delivered. All invoices shall include the following:

1. **Invoice Coversheet for Amendment No. 2 to Agreement**  
*Accela, Inc.*  
*Accela Automation Software Maintenance and Modifications*

Date: \_\_\_\_\_ Invoice No. \_\_\_\_\_

Original Agreement Term: March 31, 2008 – December 31, 2012

Original Agreement Amount: \$ 1,791,726.95

Amendment #1: Extension of Term to March 31, 2013

Amendment #2: \$ 623,742.54  
 Extension of Term to March 30, 2016

Total Agreement Amount: \$ 2,415,469.49

**For Amendment No. 2:**

This Invoice:	A.	1.	<i>First Additional Term of Annual Maintenance for Accela Automation</i>	\$ 194,365.36
		2.	<i>Second Additional Term of Annual Maintenance for Accela Automation</i>	\$ 201,168.15
		3.	<i>Third Additional Term of Annual Maintenance for Accela Automation</i>	\$ 208,209.03
	B.	1.	<i>Additional Services – Unforeseen Maintenance and Modifications</i>	<u>\$ 20,000.00</u>
<b>Grand Total:</b>				<u>\$623,742.54</u>

Invoice Billing: All Invoices Are To Be Sent To:  
 Jaime Martinez, Accounting Technician  
 County of Monterey - Resource Management Agency  
 Finance Division  
 168 W. Alisal Street, 2<sup>nd</sup> Floor, Salinas, CA 93901  
 Telephone: (831) 755-4829

Remaining Balance \$ \_\_\_\_\_

Approved as to Work/Payment: \_\_\_\_\_  
 Jackson Dy, Departmental Information Systems Manager Date \_\_\_\_\_



# CERTIFICATE OF LIABILITY INSURANCE

ACCEINC-01

JCANO

DATE (MM/DD/YYYY)

7/19/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0754591  
 Costello & Sons Insurance Brokers, Inc.  
 1752 Lincoln Avenue  
 San Rafael, CA 94901

## CONTACT NAME:

PHONE (A/C No. Ext): (415) 257-2100

FAX (A/C No.): (415) 455-1516

## E-MAIL ADDRESS:

## INSURER(S) AFFORDING COVERAGE

## NAIC #

INSURER A: The Hartford

22357

INSURER B: Lloyd's of London

INSURER C:

INSURER D:

INSURER E:

INSURER F:

## INSURED

Accela Inc.  
 2633 Camino Ramon, Suite 120  
 San Ramon, CA 94583

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	X		57UUNPC6417	7/1/2012	7/1/2013	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY			57UUNPC6417	7/1/2012	7/1/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS						BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	UMBRELLA LIAB			57RHUPC6184	7/1/2012	7/1/2013	EACH OCCURRENCE \$ 10,000,000
	<input checked="" type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000						AGGREGATE \$ 10,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	N/A		57WEZX9448	7/1/2012	7/1/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Technology E&O			SEN201136825	7/1/2012	7/1/2013	Each Claim 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, If more space is required)  
 Certificate holder is named as additional insured with regards to liability arising out of the named insureds operations and as required by written contract.  
 Policy provisions afford named insured a 30-day notice of cancellation.

## CERTIFICATE HOLDER

## CANCELLATION

Monterey County, California  
 168 West Alisal Street, 2nd Fl  
 Salinas, CA 93901

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Lucy Sakby*

© 1988-2010 ACORD CORPORATION. All rights reserved.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

- A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B. If this policy is cancelled by the Company for nonpayment of premium, or by the Insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

This SPECIAL MULTI-FLEX POLICY is provided by the stock insurance company(s) of The Hartford Insurance Group, shown below.

**COMMON POLICY DECLARATIONS**



POLICY NUMBER: 57 UUN PC6417 DE  
RENEWAL OF: 57 UUN PC6417

Named Insured and Mailing Address:  
(No., Street, Town, State, Zip Code)

ACCELA, INC.  
SEE IH1204  
2633 CAMINO RAMON STE 120  
SAN RAMON CA 94583  
(CONTRA COSTA COUNTY)

Policy Period:

From 07/01/12 To 07/01/13

12:01 A.M., Standard time at your mailing address shown above.

In return for the payment of the premium, and subject to all of the terms of this policy, we agree with you to provide insurance as stated in this policy. The Coverage Parts that are a part of this policy are listed below. The Advance Premium shown may be subject to adjustment.

Total Advance Premium:

**Coverage Part and Insurance Company Summary**

**Advance Premium**

IN RECOGNITION OF THE MULTIPLE COVERAGES INSURED WITH THE HARTFORD, YOUR POLICY PREMIUM INCLUDES AN ACCOUNT CREDIT.

PROPERTY CHOICE  
HARTFORD CASUALTY INSURANCE COMPANY  
HARTFORD PLAZA  
HARTFORD, CT 06115

LISTING OF ADDITIONAL COVERAGE PARTS CONTINUED ON THE FOLLOWING PAGE.

Form Numbers of Coverage Parts, Forms and Endorsements that are a part of this policy and that are not listed in the Coverage Parts.

HM0001 HM00100107SD4 IL00171198 IH09850312 IH12040312 IH99400409  
IH99410409 IL00210908 IL01410908 ILO2700811 PC00010109 HA00250204  
HC00100798 HC00200295

Agent/Broker Name: COSTELLO & SONS INS BROKERS INC

Countersigned by  
(Where required by law)

Authorized Representative

Date



# QUICK REFERENCE COMMERCIAL GENERAL LIABILITY COVERAGE PART OCCURRENCE

READ YOUR POLICY CAREFULLY

**DECLARATIONS PAGES**

Named Insured and Mailing Address  
Policy Period  
Description of Business and Location  
Coverages and Limits of Insurance

Beginning on Page

**SECTION I - COVERAGES**

Coverage A -	Insuring Agreement .....	1
Bodily Injury and Property Damage Liability	Exclusions .....	2
Coverage B -	Insuring Agreement .....	5
Personal and Advertising Injury Liability	Exclusions .....	6
Coverage C -	Insuring Agreement .....	7
Medical Payments	Exclusions .....	8
Supplementary Payments Coverages A And B .....		8

SECTION II - WHO IS AN INSURED .....	9
--------------------------------------	---

SECTION III - LIMITS OF INSURANCE .....	12
---	----

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS .....	13
--	----

Bankruptcy .....	13
Duties In The Event Of Occurrence, Offense, Claim or Suit .....	13
Legal Action Against Us .....	13
Other Insurance .....	14
Premium Audit .....	15
Representations .....	15
Separation of Insureds .....	15
Transfer of Rights of Recovery Against Others To Us .....	15
When We Do Not Renew .....	15

SECTION V - DEFINITIONS .....	15
-------------------------------	----

**COMMON POLICY CONDITIONS**

Cancellation  
Changes  
Examination of Your Books and Records  
Inspections and Surveys  
Premiums  
Transfer of Your Rights and Duties under this Policy

**ENDORSEMENTS**

These form numbers are shown on the Coverage Part - Declarations Page or on the Common Policy Declarations Page.

**COMMERCIAL GENERAL LIABILITY  
COVERAGE PART - DECLARATIONS**



POLICY NUMBER: 57 JON PC6417

This COMMERCIAL GENERAL LIABILITY COVERAGE PART consists of:

- A. This Declarations;
- B. Commercial General Liability Schedule;
- C. Commercial General Liability Coverage Form; and
- D. Any Endorsements Issued to be a part of this Coverage Part and listed below.

**LIMITS OF INSURANCE**

The Limits of Insurance, subject to all the terms of this Policy that apply, are:

Each Occurrence Limit	\$1,000,000
Damage to Premises Rented to You Limit - Any One Premises	\$300,000
Medical Expense Limit - Any One Person	\$10,000
Personal and Advertising Injury Limit	\$1,000,000
General Aggregate Limit, (other than Products-Completed Operations)	\$2,000,000
Products-Completed Operations Aggregate Limit	\$2,000,000

**ADVANCE PREMIUM:**

**AUDIT PERIOD: ANNUAL AUDIT**

Except in this Declarations, when we use the word "Declarations" in this Coverage Part, we mean this "Declarations" or the "Common Policy Declarations."

Form Numbers of Coverage Forms, Endorsements and Schedules that are part of this Coverage Part:

HC70010605	CG20100704	CG25020798	HC00881210	HC00971210
HC04361210	HC21231001	HC21960605	HC23700108	HG00010605
HG00681210	HG21020204	CG01861204	CG32340105	HC04141001
HC20311210	HC21900608	HC12101185T		
IH12011185	FORM: HC 20 31 1210 ADDITIONAL PERSONS OR ORGANIZATIONS DESIGNATED AS NAMED INSUREDS			
IH12011185	FORM: CG2010 0704 ADDITIONAL INSURED-OWNERS, LESSEES OR CONTRACTORS-SCHEDULED PERSON OR ORGANIZATION			

COMMERCIAL GENERAL LIABILITY  
COVERAGE PART - DECLARATIONS (Continued)

POLICY NUMBER: 57 UUN PC6417

Form Numbers of Coverage Forms, Endorsements and Schedules that are part of this Coverage Part: (Continued)

IH12011185 FORM: HC2030 1210  
ADDITIONAL PERSONS OR ORGANIZATIONS  
DESIGNATED AS NAMED INSURED  
IH12011185 FORM: CG2010 0704 ADDITIONAL INSURED-OWNERS,  
LESSEES OR CONTRACTORS-SCHEDULED PERSON OR  
ORGANIZATION





## COMMERCIAL GENERAL LIABILITY COVERAGE FORM

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 "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V - Definitions.

### SECTION I - COVERAGES

#### COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

##### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and

(2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

(1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(2) The "bodily injury" or "property damage" occurs during the policy period; and

(3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

(1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

##### e. Incidental Medical Malpractice

(1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:

(a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and

(b) You are not engaged in the business or occupation of providing such services.

- (2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

## 2. Exclusions

This insurance does not apply to:

### a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the Insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

### b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the Insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
  - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

### c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

### d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

### e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or
  - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

### f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
  - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
    - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
    - (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily Injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
  - (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
  - (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
    - (i) Any insured; or
    - (ii) Any person or organization for whom you may be legally responsible;
  - (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
    - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
    - (ii) "Bodily Injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
    - (iii) "Bodily Injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or
    - (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
  - (2) Any loss, cost or expense arising out of any:
    - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
    - (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".
- However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.
- g. Aircraft, Auto Or Watercraft**
- "Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".
- This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.
- This exclusion does not apply to:
- (1) A watercraft while ashore on premises you own or rent;
  - (2) A watercraft you do not own that is:
    - (a) Less than 51 feet long; and
    - (b) Not being used to carry persons for a charge;
  - (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily Injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment"; or
- (6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

**h. Mobile Equipment**

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

**i. War**

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) 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
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**j. Damage To Property**

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors

working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" arising from the use of elevators.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at the job site.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

**k. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**l. Damage To Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

**m. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**n. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

If such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**o. Personal And Advertising Injury**

"Bodily injury" arising out of "personal and advertising injury".

**p. Electronic Data**

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

**q. Employment-Related Practices**

"Bodily injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**r. Asbestos**

- (1) "Bodily injury" or "property damage" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
  - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or

kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";

- (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or

- (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

**Damage To Premises Rented To You - Exception For Damage By Fire, Lightning Or Explosion**

Exclusions c. through h. and j. through n. do not apply to damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - Limits Of Insurance.

**COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**

**1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

## 2. Exclusions

This insurance does not apply to:

### a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" arising out of an offense committed by, at the direction or with the consent or acquiescence of the Insured with the expectation of inflicting "personal and advertising injury".

### b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral, written or electronic publication of material, if done by or at the direction of the Insured with knowledge of its falsity.

### c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period.

### d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

### e. Contractual Liability

"Personal and advertising injury" for which the Insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

### f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement".

### g. Quality Or Performance Of Goods - Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

### h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services.

### i. Infringement Of Intellectual Property Rights

"Personal and advertising injury" arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of:

- (1) Copyright;

- (2) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

- (3) Title of any literary or artistic work.

### j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 17.a., b. and c. of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting.

### k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the Insured hosts, owns, or over which the Insured exercises control.

### l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

### m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

### n. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

**o. War**

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) 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
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**p. Internet Advertisements And Content Of Others**

"Personal and advertising injury" arising out of:

- (1) An "advertisement" for others on your web site;
- (2) Placing a link to a web site of others on your web site;
- (3) Content, including information, sounds, text, graphics, or images from a web site of others displayed within a frame or border on your web site; or
- (4) Computer code, software or programming used to enable:
  - (a) Your web site; or
  - (b) The presentation or functionality of an "advertisement" or other content on your web site.

**q. Right Of Privacy Created By Statute**

"Personal and advertising injury" arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act.

**r. Violation Of Anti-Trust Law**

"Personal and advertising injury" arising out of a violation of any anti-trust law.

**s. Securities**

"Personal and advertising injury" arising out of the fluctuation in price or value of any stocks, bonds or other securities.

**t. Discrimination Or Humiliation**

"Personal and advertising injury" arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

**u. Employment-Related Practices**

"Personal and advertising injury" to:

- (1) A person arising out of any "employment-related practices"; or

- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**v. Asbestos**

- (1) "Personal and advertising injury" arising out of the "asbestos hazard".

- (2) Any damages, judgments, settlements, loss, costs or expenses that:

- (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";

- (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or

- (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

**COVERAGE C MEDICAL PAYMENTS**

**1. Insuring Agreement**

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations;

provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within three years of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
  - (1) First aid administered at the time of an accident;
  - (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
  - (3) Necessary ambulance, hospital, professional nursing and funeral services.

**2. Exclusions**

We will not pay expenses for "bodily injury":

- a. Any Insured  
To any insured, except "volunteer workers".
- b. Hired Person  
To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. Injury On Normally Occupied Premises  
To a person injured on that part of premises you own or rent that the person normally occupies.
- d. Workers Compensation And Similar Laws  
To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- e. Athletics Activities  
To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.
- f. Products-Completed Operations Hazard  
Included within the "products-completed operations hazard".
- g. Coverage A Exclusions  
Excluded under Coverage A.

**SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**

- 1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
  - a. All expenses we incur.
  - b. Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
  - c. The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
  - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

- e. All costs taxed against the insured in the "suit".
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:

- (1) Agrees in writing to:

- (a) Cooperate with us in the investigation, settlement or defense of the "suit";
- (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
- (c) Notify any other insurer whose coverage is available to the indemnitee; and
- (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

- (2) Provides us with written authorization to:

- (a) Obtain records and other information related to the "suit"; and
- (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee,



necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I - Coverage A - Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

## SECTION II - WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

a. **Employees and Volunteer workers**

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services, Paragraph (d) does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by,
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. **Real Estate Manager**

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. **Temporary Custodians of Your Property**

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

d. **Legal Representative If You Die**

Your legal representative if you die, but only with respect to duties as such. That representative will

have all your rights and duties under this Coverage Part.

**e. Unnamed Subsidiary**

Any subsidiary, and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of the Coverage Part.

The insurance afforded herein for any subsidiary not named in this Coverage Part as a named insured does not apply to injury or damage with respect to which an insured under this Coverage Part is also an insured under another policy or would be an insured under such policy but for its termination or the exhaustion of its limits of insurance.

**3. Newly Acquired or Formed Organization**

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

**4. Mobile Equipment**

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily Injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

**5. Nonowned Watercraft**

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

**6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit**

The following person(s) or organization(s) are an additional insured when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement.

A person or organization is an additional insured under this provision only for that period of time required by the contract or agreement.

However, no such person or organization is an insured under this provision if such person or organization is included as an insured by an endorsement issued by us and made a part of this Coverage Part.

**a. Vendors**

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
  - (i) The exceptions contained in Sub-paragraphs (d) or (f); or
  - (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

- (2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

**b. Lessors of Equipment**

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.
- (2) With respect to the insurance afforded to these additional insureds this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

**c. Lessors of Land or Premises**

Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

With respect to the insurance afforded these additional insureds the following additional exclusions apply:

This insurance does not apply to:

- 1. Any "occurrence" which takes place after you cease to lease that land; or
- 2. Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**d. Architects, Engineers or Surveyors**

Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (1) In connection with your premises; or
- (2) In the performance of your ongoing operations performed by you or on your behalf.

With respect to the insurance afforded these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

- 1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- 2. Supervisory, inspection, architectural or engineering activities.

**e. Permits Issued By State Or Political Subdivisions**

Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

With respect to the insurance afforded these additional insureds, this insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

**f. Any Other Party**

Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (1) In the performance of your ongoing operations;
- (2) In connection with your premises owned by or rented to you; or
- (3) In connection with "your work" and included within the "products-completed operations hazard", but only if
  - (a) The written contract or agreement requires you to provide such coverage to such additional insured; and
  - (b) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds under this provision is described in Section III - Limits Of Insurance.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in Section IV - Commercial General Liability Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

**SECTION III - LIMITS OF INSURANCE**

**1. The Most We will Pay**

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or

c. Persons or organizations making claims or bringing "suits".

**2. General Aggregate Limit**

The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.

**3. Products-Completed Operations Aggregate Limit**

The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

**4. Personal and Advertising Injury Limit**

Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

**5. Each Occurrence Limit**

Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
- b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".

**6. Damage To Premises Rented To You Limit**

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

**7. Medical Expense Limit**

Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

**8. How Limits Apply To Additional Insureds**

If you have agreed in a written contract or written agreement that another person or organization be

added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- a. The limits of insurance specified in the written contract or written agreement; or
- b. The limits of insurance shown in the Declarations.

Such amount shall be a part of and not in addition to limits of insurance shown in the Declarations and described in this Section.

The limits of insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the limits of insurance.

#### SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

##### 1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

##### 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

###### a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

###### b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.

###### c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;

- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and

- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

###### d. Obligations At The Insureds Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

###### e. Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

###### f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs a. and b. apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This duty applies separately to you and any additional insured.

##### 3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or

that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

#### 4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

##### a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

##### b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

##### (1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

##### (2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

##### (3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

##### (4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

##### (5) Property Damage to Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion j. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

##### (6) When You Are Added As An Additional Insured To Other Insurance

Any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

##### (7) When You Add Others As An Additional Insured To This Insurance

Any other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this coverage part.

##### (a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

##### (b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

##### c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

#### 5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

#### 6. Representations

##### a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this policy in reliance upon your representations.

##### b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

#### 7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each Insured against whom claim is made or "suit" is brought.

#### 8. Transfer Of Rights Of Recovery Against Others To Us

##### a. Transfer of Rights Of Recovery

If the Insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The Insured must do nothing after loss to impair them. At our request, the

Insured will bring "suit" or transfer those rights to us and help us enforce them.

##### b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the Insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the Insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

#### 9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

#### SECTION V - DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper; or

b. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

- a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or
- b. An interactive conversation between or among persons through a computer network.

2. "Advertising Idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily Injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or
- c. All other parts of the world if the injury or damage arises out of:
  - (1) Goods or products made or sold by you in the territory described in a. above;
  - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
  - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "sue" on the merits according to the substantive law in such territory or in a settlement we agree to.

7. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

8. "Employment-Related Practices" means:

- a. Refusal to employ a person;
- b. Termination of a person's employment; or
- c. Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at a person.

9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

If such property can be restored to use by:

- a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
- b. Your fulfilling the terms of the contract or agreement.

12. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while

rented to you or temporarily occupied by you with permission of the owner is subject to the Damage to Premises Rented To You Limit described in Section III - Limits of Insurance;

- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. Includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

However, Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

14. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";



b. While it is in or on an aircraft, watercraft or "auto"; or

c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

b. Vehicles maintained for use solely on or next to premises you own or rent;

c. Vehicles that travel on crawler treads;

d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment, of at least 1,000 pounds gross vehicle weight, designed primarily for:

(a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

a. False arrest, detention or imprisonment;

b. Malicious prosecution;

c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;

d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

e. Oral, written or electronic publication of material that violates a person's right of privacy;

f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";

g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or

h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

18. "Pollutants" mean 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.

19. "Products-completed operations hazard":

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

(1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

(a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

20. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

As used in this definition, computerized or electronically stored data, programs or software are not tangible property. Electronic data means information, facts or programs:

- a. Stored as or on;
- b. Created or used on; or
- c. Transmitted to or from;

computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the Insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the Insured submits with our consent.

22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

23. "Volunteer worker" means a person who

- a. Is not your "employee";
- b. Donates his or her work;
- c. Acts at the direction of and within the scope of duties determined by you; and
- d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "Your product":

a. Means:

(1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

- (a) You;
- (b) Others trading under your name; or
- (c) A person or organization whose business or assets you have acquired; and

(2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

(2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work":

a. Means:

(1) Work or operations performed by you or on your behalf; and

(2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and

(2) The providing of or failure to provide warnings or instructions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## POLICY CHANGES

This endorsement forms a part of the Policy numbered below:

POLICY NUMBER: 57 UUN PC6417 DE

CHANGE NUMBER: 004

Policy Change Effective Date: 08/13/12

Named Insured: ACCELA, INC.  
SEE IH1204

Producer's Name: COSTELLO & SONS INS BROKERS INC

Pro Rata Factor: .882

### Description of Change(s):

ANY CHANGES IN YOUR PREMIUM WILL BE REFLECTED IN YOUR NEXT BILLING STATEMENT. IF YOU ARE ENROLLED IN REPETITIVE EFT DRAWS FROM YOUR BANK ACCOUNT, CHANGES IN PREMIUM WILL CHANGE FUTURE DRAW AMOUNTS. THIS IS NOT A BILL.

NO PREMIUM DUE AT POLICY CHANGE EFFECTIVE DATE.

FORM NUMBERS OF COVERAGE PARTS AND ENDORSEMENTS ADDED TO THIS POLICY AT ENDORSEMENT ISSUE: SEE ABOVE FOR COMPANY NAME

ENTIRE CONTRACT: IH03130611



Countersigned by  
(Where required by law)

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Date



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

- A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B. If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

### BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

#### 1. BROAD FORM INSURED

##### A. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

- (1) Any legally incorporated subsidiary in which you own more than 50% of the voting stock on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
- (2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
  - (a) That is a partnership, joint venture or limited liability company
  - (b) That is an "insured" under any other policy,
  - (c) That has exhausted its Limit of Insurance under any other policy, or
  - (d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

##### B. Employees as Insureds

Paragraph A.1. - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add:

- d. Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

##### C. Lessors as Insureds

Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
  - (1) The agreement requires you to provide direct primary insurance for the lessor and
  - (2) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

##### D. Additional Insured if Required by Contract

(1) Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- f. When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

- (1) During the policy period, and
- (2) Subsequent to the execution of such written contract, and
- (3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- (a) The limits of insurance specified in the written contract or written agreement; or
- (b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties In The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - OF SECTION IV - BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

E. Primary and Non-Contributory If Required by Contract

Only with respect to insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

(3) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(4) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (3) and (4) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

2. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:

If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

**3. AMENDED FELLOW EMPLOYEE EXCLUSION**

**EXCLUSION 5. - FELLOW EMPLOYEE -** of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

**4. HIRED AUTO PHYSICAL DAMAGE COVERAGE**

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

- (1) \$100,000;
- (2) The actual cash value of the damaged or stolen property at the time of the "loss"; or
- (3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of \$1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

**5. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE**

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$50 per day and a maximum limit of \$1,000.

**6. LOAN/LEASE GAP COVERAGE**

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

**7. AIRBAG COVERAGE**

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

**8. ELECTRONIC EQUIPMENT - BROADENED COVERAGE**

The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

a. Exclusions 4.c. and 4.d. do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto";
- (2) Removable from a housing unit which is permanently installed in or upon the covered "auto";
- (3) An integral part of the same unit housing any electronic equipment described in Paragraphs a. and b. above; or
- (4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

b. \$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
- (2) Removable from a permanently installed housing unit as described in Paragraph b.(1) above or is an integral part of that equipment; or
- (3) An integral part of such equipment.

c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or \$250, whichever deductible is less.

**9. EXTRA EXPENSE - BROADENED COVERAGE**

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

**10. GLASS REPAIR - WAIVER OF DEDUCTIBLE**

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

**11. TWO OR MORE DEDUCTIBLES**

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

- (1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;
- (2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

**12. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS**

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT,

CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) A member, if you are a limited liability company; or
- (4) An executive officer or insurance manager, if you are a corporation.

**13. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

**14. HIRED AUTO - COVERAGE TERRITORY**

Paragraph e. of GENERAL CONDITIONS 7. - POLICY PERIOD, COVERAGE TERRITORY - of SECTION IV - BUSINESS AUTO CONDITIONS is replaced by the following:

- e. For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

**15. WAIVER OF SUBROGATION**

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS is amended by adding the following:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

**16. RESULTANT MENTAL ANGUISH COVERAGE**

The definition of "bodily injury" in SECTION V - DEFINITIONS is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

**17. EXTENDED CANCELLATION CONDITION**

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:



If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

#### 18. HYBRID PAYMENT COVERAGE

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

- a. If the auto is replaced with a "hybrid" auto, we will pay an additional 10%, to a maximum of \$2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less.
- b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"

- c. Regardless of the number of autos damaged in any one "loss", the most we will pay under this Hybrid Payment Coverage provision for any one "loss" is \$10,000.

For the purposes of the coverage provision,

- a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto.
- b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.



# COUNTY OF MONTEREY PURCHASE ORDER

ORDER DATE 03-28-2013

LPO 3000 0000000723

**IMPORTANT**

THE ABOVE NUMBER AND SHIP TO DEPARTMENT MUST APPEAR ON ALL SHIPPING LABELS, PACKING SLIPS, TRANSPORT DOCUMENTS, INVOICES AND CORRESPONDENCE.

<b>VENDOR</b> ACCELA INC 2833 Camino Ramon Ste 120 San Ramon CA 84583	<b>SHIP TO</b> PLANNING & BLDG/ INSPECTION INSPECTION 168 W. ALISAL ST., 2ND FLOOR SALINAS CA 93901	<b>BLT TO</b> PLANNING & BLDG/ ALISAL 168 W. ALISAL ST 2ND FLOOR SALINAS CA 93901
VENDOR NUMBER: CV000002384		
DELIVERY DATE: _____ F.O.B.: _____		

ITEM	QUANTITY	UNIT	COMMODITY CODE	ITEM DESCRIPTION	UNIT PRICE	SALES TAX	EXTENDED PRICE
				PURCH DESC: THIS PURCHASE ORDER IS ISSUED TO INCREASE AGREEMENT AMOUNT, EXTEND THE TERM THROUGH 03/30/16 AND AMEND LANGUAGE PER AMENDMENTS NO. 1 AND NO. 2. FOR THE IMPLEMENTATION, HOSTING AND MAINTENANCE OF THE ACCELA AUTOMATION SOFTWARE PRODUCT FOR THE MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY  THIS PURCHASE ORDER IS VALID FROM 07/01/12 - 06/30/13 AND SHALL NOT EXCEED \$194,365.36.  THIS AGREEMENT IS VALID FROM 03/31/08 - 03/30/16 AND SHALL NOT EXCEED \$2,415,469.49  *****CHANGE ORDER***** CORRECTION TO EXPENDITURE ACCOUNT  20811 COMM LINE DESC: Accela Permit System EXTENDED DESC: Capital Lease 001 - 3000 - 8170 - RMA011 - 7561 - - - 257796.18 001 - 3000 - 8172 - RMA001 - 7561 - - - 100000.00  92045 COMM LINE DESC: Accela Permit System - Maintenance EXTENDED DESC: Accela Permit System - Maintenance	.00	.00	357,796.18
2	0.0				.00	.00	194,365.36

ORDER TOTAL

194,365.36

THE SHADED ROWS ARE FOR MONTEREY COUNTY DEPARTMENT USE ONLY

All Vendors are required to review the Monterey County general terms and conditions which apply to all contracts, purchase orders, and other electronic procurements made with the County unless otherwise noted. Said terms and conditions can be found on the County website at [http://www.co.monterey.ca.us/admin/terms\\_conditions.htm](http://www.co.monterey.ca.us/admin/terms_conditions.htm)

**TAX EXEMPTION INFORMATION:**  
 FEDERAL EXCISE TAX EXEMPTION NUMBER 94-6000524

AUTHORIZED BY COUNTY OF MONTEREY  
 DEPUTIZED PURCHASING AGENT

*Michael R. [Signature]*

COUNTY BUYER INFORMATION  
 Jaime Ayala  
 EMAIL: [ayalaj@co.monterey.ca.us](mailto:ayalaj@co.monterey.ca.us)

TELEPHONE: (831)755-4998 x4998

CONTRACTS/PURCHASING DIVISION  
 168 W. Alisal St. 3rd Floor, Salinas, CA 93901

PRINT DATE: 03/28/13

PAGE NUMBER: 1 OF 2



# COUNTY OF MONTEREY

## PURCHASE ORDER

ORDER DATE 03-28-2013

LPO 3000 0000000723

**IMPORTANT**

THE ABOVE NUMBER AND SHIP TO DEPARTMENT MUST APPEAR ON ALL SHIPPING LABELS, PACKING SLIPS, TRANSPORT DOCUMENTS, INVOICES AND CORRESPONDENCE.

<p><b>VENDOR</b></p> <p>ACCELA INC 2633 Camino Ramon Ste 120 San Ramon CA 84583</p>	<p><b>SHIP TO</b></p> <p>PLANNING &amp; BLDG/ INSPECTION INSPECTION 168 W. ALISAL ST., 2ND FLOOR SALINAS CA 93901</p>	<p><b>BLT O</b></p> <p>PLANNING &amp; BLDG/ ALISAL 168 W. ALISAL ST 2ND FLOOR SALINAS CA 93901</p>
<p>VENDOR NUMBER: CV000002384</p>		<p>F.O.B.:</p>
<p>DELIVERY DATE:</p>		<p>DELIVERY DATE:</p>

ITEM	QUANTITY	UNIT	COMMODITY CODE	ITEM DESCRIPTION	UNIT PRICE		SALES TAX	EXTENDED PRICE
001	3000		8170	8170	155492.29			
			RMA011	6321				
001	3000		8172	8172	38873.07			
			RMA001	6321				

**ORDER TOTAL 552,161.54**

THE SHADED ROWS ARE FOR MONTEREY COUNTY DEPARTMENT USE ONLY

All Vendors are required to review the Monterey County general terms and conditions which apply to all contracts, purchase orders, and other electronic procurements made with the County unless otherwise noted. Said terms and conditions can be found on the County website at <http://www.co.monterey.ca.us/admin/term-conditions.htm>

<p><b>TAX EXEMPTION INFORMATION:</b></p> <p>FEDERAL EXCISE TAX EXEMPTION NUMBER 94-6000524</p> <p>AUTHORIZED BY COUNTY OF MONTEREY DEPUTIZED PURCHASING AGENT</p> <p style="text-align: center;"><i>Michael R. Taylor</i></p>	<p><b>COUNTY BUYER INFORMATION</b></p> <p>Jaime Ayala EMAIL: <a href="mailto:ayalaj@co.monterey.ca.us">ayalaj@co.monterey.ca.us</a></p> <p>TELEPHONE: (831)755-4998 x4998</p>
---	---

PRINT DATE: 03/28/13

CONTRACTS/PURCHASING DIVISION  
168 W. Alisal St. 3rd Floor, Salinas, CA 93901

PAGE NUMBER: 2 OF 2