

**AGREEMENT BETWEEN COUNTY OF MONTEREY AND CSG
CONSULTANTS, INC., FOR PLAN REVIEW SERVICES**

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 CSG Consultants, Inc., hereinafter referred to as "CONTRACTOR."

RECITALS

WHEREAS, County has invited qualifications proposals through the Request for Qualifications (RFQ) # 10336 for PLAN REVIEW SERVICES in accordance with the specifications set forth in this AGREEMENT; and

WHEREAS, CONTRACTOR has submitted a responsive and responsible qualifications proposal to perform such services; and

WHEREAS, CONTRACTOR has the expertise and capabilities necessary to provide the services requested.

NOW THEREFORE, County and CONTRACTOR, for the consideration hereinafter named, agree as follows:

1.0 PERFORMANCE OF THE AGREEMENT

- 1.1 After consideration and evaluation of the CONTRACTOR'S qualifications proposal, the County hereby engages CONTRACTOR to provide the services set forth in RFQ #10336 and in this AGREEMENT on the terms and conditions contained herein and in RFQ #10336. The intent of this AGREEMENT is to summarize the contractual obligations of the parties. The component parts of this AGREEMENT include the following:

AGREEMENT, including all Exhibits and Attachments,
Addendum (or Addenda) to RFQ #10336,
RFQ #10336 dated 02/09/2012,
CONTRACTOR'S Proposal dated 03/08/2012,
Certificate of Insurance
Additional Insured Endorsements

- 1.2 All of the above-referenced contract documents are intended to be complementary. Work required by one of the above-referenced contract documents and not by others shall be done as if required by all. In the event of a conflict between or among component parts of the contract, the contract documents shall be construed in order listed above in Section 1.1.

- 1.3 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this AGREEMENT are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this AGREEMENT and are not employees of the County, or immediate family of an employee of the County.
- 1.4 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this AGREEMENT that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
 - 1.4.1 CONTRACTOR must maintain all licenses and certifications throughout the term of the AGREEMENT.
- 1.5 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this AGREEMENT, except as otherwise specified in this AGREEMENT. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this AGREEMENT.

2.0 SCOPE OF SERVICE

- 2.1 Contractor Minimum Work Performance Percentage: CONTRACTOR shall perform with his own organization contract work amounting to not less than 50 percent of the original total contract price, except that any designated 'Specialty Items' may be performed by subcontract and the amount of any such 'Specialty Items' so performed may be deducted from the original total contract price before computing the amount of work required to be performed by the Contractor with his own organization.
- 2.2 Services shall be on an as-needed basis only. The Scope of Work includes but is not limited to the following:
 - 2.2.1 CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of Plan Review Services. CONTRACTOR shall review architectural and engineering documents as provided by County for compliance with all applicable building codes, fire codes, energy conservation standards, State Accessibility regulations, and all local ordinances including but not limited to all policy and model codes adopted by County and the State as set forth below:
 - a. 2010 California Building Code, Volumes 1 and 2 as adopted by the State of California
 - b. 2010 California Residential Code
 - c. 2010 California Electrical Code as adopted by the State of California
 - d. 2010 California Plumbing Code as adopted by the State of California

- e. 2010 California Mechanical Code as adopted by the State of California.
 - f. 2010 California Fire Code as jointly published by the Western Fire Chiefs Association and the National Fire Protection Association (NFP A) as amended and adopted by the State of California (Title-24, Part 9 California Fire Code)
 - g. National Fire Codes as published by the National Fire Protection Association (NFP A); as adopted and referenced by the State of California (California Code of Regulations, Title-19, Section 1.09)
 - h. 2010 State Historical Building Code
 - i. 2008 California Energy Code
 - j. 2008/2010 California Green Building Code
 - k. County adopted ordinances and amendments relative to building and municipal codes, including specific project *conditions of approval* designated by County, regulating agencies and/or other local jurisdictions.
- 2.2.2 Inspection services are not included in this scope of work and will, therefore, not be requested of CONTRACTOR.
- 2.2.3 Timelines and Deliverables. Timelines for common plan review projects are outlined in EXHIBIT 1 PERFORMANCE TIMELINES attached hereto. CONTRACTOR shall be expected to perform per these timelines for routine requests by County to provide plan review services unless otherwise mutually agreed upon in advance, or in the case of an Accelerated Plan Review request as described in Section 5.2.5 herein.
- 2.2.4 Delays. If a review is anticipated to take longer than the expected turnaround time as per EXHIBIT 1 PERFORMANCE TIMELINES attached hereto, CONTRACTOR shall notify County of such a delay within five (5) business days of receipt of plans. CONTRACTOR shall use all communication mechanisms necessary to confirm that County received notification of delays within this 5 day requirement.
- 2.2.5 Accelerated Plan Review. County may occasionally request that plan review turnaround times be accelerated (expedited), typically due to a sudden and unanticipated urgency. In these accelerated plan review requests CONTRACTOR shall complete initial plan review within fewer than five (5) business days from receiving the plans. Re-reviews shall be completed in three (3) business days or less. Exact turnaround times for Accelerated Plan Review requests may also be specifically negotiated between the applicant, the jurisdiction, County, and CONTRACTOR. Roughly one percent of all requests by County for plan review services may be accelerated requests.
- 2.2.6 Plan Review Comments. All plan review comments will be developed and submitted using a Plan Check Comments Sheet template. The template shall be mutually agreed upon for use by County and CONTRACTOR at the time the AGREEMENT is entered into. A sample of such a template is attached hereto for reference as EXHIBIT 2 PLAN CHECK COMMENTS SHEET SAMPLE. Any

modifications to the working template such as disabled access, and/or any additional forms or templates established by County and CONTRACTOR for alternative methods of construction may be incorporated as needed and utilized with the appropriate recommendations when necessary.

2.2.7 General Communication. It is County's preference to utilize electronic communications whenever possible except when sending plan documents back and forth.

2.2.7.1 Should CONTRACTOR possess an online document management system which the County may be granted access to for transmitting and documenting the plan review process, communication of plans and comments would be handled via the available system; or

2.2.7.2 Plans shall be transmitted hardcopy via either courier service or ground mail service.

3.0 TERM OF AGREEMENT

3.1 The term of the AGREEMENT shall begin upon execution of the AGREEMENT through and including June 30, 2015 with the option to extend for two (2) additional one (1) year periods.

3.1.1 County is not required to state a reason if it elects not to renew.

3.2 County reserves the right to cancel the AGREEMENT, or any extension of the AGREEMENT, without cause, with a thirty day (30) written notice, or immediately with cause.

4.0 COMPENSATION AND PAYMENTS

4.1 It is mutually understood and agreed by both parties that CONTRACTOR shall be compensated under this AGREEMENT in accordance with the pricing sheet attached hereto as ATTACHMENT NO. A.

4.1.1 Three Agreements in total have been awarded for Plan Review Services per RFQ #10336. The aggregate total amount for all three Agreements shall not exceed \$615,000.00 annually.

4.1.2 County does not guarantee any minimum or maximum amount of dollars to be spent under this AGREEMENT.

4.2 Prices as per ATTACHMENT A shall remain firm for the initial term of this AGREEMENT and, thereafter, may be adjusted annually provided that negotiations for rate changes proposed by CONTRACTOR are communicated to County a minimum of ninety days (90) prior to the expiration date of this AGREEMENT. Both County and CONTRACTOR shall agree to any and all price changes in writing via an amendment.

- 4.3 Any discount offered by the CONTRACTOR must allow for payment after receipt and acceptance of services, material or equipment and correct invoice, whichever is later. In no case will a discount be considered that requires payment in less than 30 days.
- 4.4 CONTRACTOR shall levy no additional fees or surcharges of any kind during the term of this AGREEMENT without first obtaining approval from County in writing.
- 4.5 Tax:
 - 4.5.1 Pricing as per this AGREEMENT is inclusive of all applicable taxes.
 - 4.5.2 County is registered with the Internal Revenue Service, San Francisco office, tax ID 94-6000524. The County is exempt from Federal Transportation Tax; an exemption certificate is not required where shipping documents show Monterey County as consignee.

5.0 INVOICES AND PURCHASE ORDERS

- 5.1 Invoices for all services rendered per this AGREEMENT shall be billed directly to the County of Monterey Resource Management Agency at the following address:

County of Monterey
Resource Management Agency - Building Services Department
Attn: Jaime Martinez
168 W. Alisal Street, 2nd Floor
Salinas, CA 93901
- 5.2 CONTRACTOR shall reference “RFQ #10336” on all invoices submitted to County. CONTRACTOR shall submit such invoices periodically or at the completion of services, but in any event, not later than 30 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 County approves in conformity with this AGREEMENT, and shall promptly submit such invoice to County Auditor-Controller for payment. County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.
- 5.3 All County of Monterey Purchase Orders issued for the AGREEMENT are valid only during the fiscal year in which they are issued (the fiscal year is defined as July 1 through June 30).
- 5.4 Unauthorized Surcharges or Fees: Invoices containing unauthorized surcharges or unauthorized fees of any kind shall be rejected by County. Surcharges and additional fees not included the AGREEMENT must be approved by County in writing via an Amendment.

6.0 DESIGN PROFESSIONAL INDEMNIFICATION

- 6.1 For purposes of the following indemnification provisions (“Indemnification AGREEMENT”), “design professional” has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification AGREEMENT is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification AGREEMENT and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification AGREEMENT and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for County under this Indemnity AGREEMENT that is permitted by law shall be provided by CONTRACTOR.
- 6.2 Indemnification for Design Professional Services Claims:
CONTRACTOR shall indemnify, defend and hold harmless County, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this AGREEMENT, excepting only liability arising from the sole negligence, active negligence or willful misconduct of County, or defect in a design furnished by County.
- 6.3 Indemnification for All Other Claims or Loss:
For any claim, loss, injury, damage, expense or liability other than claims arising out of CONTRACTOR’s performance of design professional services under this AGREEMENT, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this AGREEMENT by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of COUNTY, or defect in a design furnished by COUNTY.

7.0 INSURANCE REQUIREMENTS

- 7.1 Evidence of Coverage:
- 7.1.1 Prior to commencement of this AGREEMENT, 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 CONTRACTOR upon request shall provide a certified copy of the policy or policies.

- 7.1.2 This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. 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 County. This approval of insurance shall neither relieve nor decrease the liability of CONTRACTOR.
- 7.2 Qualifying Insurers: All coverage's, 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 County's Purchasing Officer.
- 7.3 Insurance Coverage Requirements:
- 7.3.1 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:
- 7.3.1.1 Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform 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.
- 7.3.1.2 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 \$1,000,000 per occurrence.
- 7.3.1.3 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.
- 7.3.1.4 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, 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.

7.4 Other Insurance Requirements:

- 7.4.1 All insurance required by this AGREEMENT shall be with a company acceptable to 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.
- 7.4.2 Each liability policy shall provide that 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.
- 7.4.3 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.
- 7.4.4 Prior to the execution of this AGREEMENT by County, CONTRACTOR shall file certificates of insurance with County's contract administrator and County's Contracts/Purchasing Division, showing that CONTRACTOR has in effect the insurance required by this AGREEMENT. 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.
- 7.4.5 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.

8.0 RECORDS AND CONFIDENTIALITY

- 8.1 Confidentiality: CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this AGREEMENT, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this AGREEMENT except for the sole purpose of carrying out CONTRACTOR's obligations under this AGREEMENT.
- 8.2 County Records: When this AGREEMENT expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this AGREEMENT.
- 8.3 Maintenance of Records: CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this AGREEMENT.
- 8.4 Access to and Audit of Records: County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of CONTRACTOR and its subcontractors related to services provided under this AGREEMENT. The parties to this AGREEMENT may be subject, at the request of County or as part of any audit of County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this AGREEMENT for a period of three years after final payment under the AGREEMENT.

9.0 NON-DISCRIMINATION

- 9.1 During the performance of this contract, CONTRACTOR shall not unlawfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. CONTRACTOR shall

ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code, §12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, §7285.0, et seq.).

- 9.2 The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, §12900, et seq., set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- 9.3 CONTRACTOR shall include the non-discrimination and compliance provisions of the clause in all AGREEMENTs with subcontractors to perform work under the contract.

10.0 OVERRIDING CONTRACTOR PERFORMANCE REQUIREMENTS

- 10.1 Independent Contractor: CONTRACTOR shall be an independent contractor and shall not be an employee of Monterey County, nor immediate family of an employee of County. CONTRACTOR shall be responsible for all insurance (General Liability, Automobile, Workers' Compensation, unemployment, etc.) and all payroll-related taxes. CONTRACTOR shall not be entitled to any employee benefits. CONTRACTOR shall control the manner and means of accomplishing the result contracted for herein.
- 10.2 Minimum Work Performance Percentage: CONTRACTOR shall perform with his own organization contract work amounting to not less than 50 percent of the original total AGREEMENT amount, except that any designated 'Specialty Items' may be performed by subcontract and the amount of any such 'Specialty Items' so performed may be deducted from the original total AGREEMENT amount before computing the amount of work required to be performed by CONTRACTOR with his own organization or per a consortium.
- 10.3 Non-Assignment: CONTRACTOR shall not assign this contract or the work required herein without the prior written consent of County.
- 10.4 Any and all subcontractors shall comply with all of County's insurance and indemnification requirements as detailed in this AGREEMENT.

11.0 CONFLICT OF INTEREST

- 11.1 CONTRACTOR covenants that CONTRACTOR, its responsible officers, and its employees having major responsibilities for the performance of work under the AGREEMENT, presently have no interest and during the term of this AGREEMENT will not acquire any interests, direct or indirect, which might conflict in any manner or degree with the performance of CONTRACTOR'S services under this AGREEMENT.

12.0 COMPLIANCE WITH APPLICABLE LAWS

- 12.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws, that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.
- 12.2 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.
- 12.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations and guidelines that are in force at the time such documentation is prepared.

13.0 FORCE MAJEURE

- 13.1 "Force Majeure" means any cause beyond the reasonable control of a party, including but not limited to acts of God, civil or military disruption, fire, strike, flood, riot, war, or inability due to the aforementioned causes to obtain necessary labor, materials or facilities.
- 13.2 If any party hereto is delayed or prevented from fulfilling its obligations under this AGREEMENT by Force Majeure, said party will not be liable under this AGREEMENT for said delay or failure, nor for damages or injuries resulting directly from the inability to perform scheduled work due to Force Majeure.
- 13.3 CONTRACTOR shall be granted an automatic extension of time commensurate with any delay in performing scheduled work arising from Force Majeure. CONTRACTOR agrees to resume such work within three (3) days after the Force Majeure has subsided enough to do so.

14.0 TRAVEL REIMBURSEMENT

- 14.1 There shall be no travel reimbursement for this AGREEMENT.

15.0 INTELLECTUAL PROPERTY RIGHTS

- 15.1 All data provided by County belongs to County. All records compiled by CONTRACTOR in completing the work described in this AGREEMENT, including but not limited to written reports, studies, drawings, blueprints, negatives of photographs, graphs, charts, plans, source codes, specifications and all other similar recorded data, shall become and remain the property of County. Use or distribution of County data by CONTRACTOR is prohibited unless CONTRACTOR obtains prior written consent from County.
- 15.2 Notwithstanding anything to the contrary contained in this AGREEMENT, it is understood and agreed that CONTRACTOR shall retain all of its rights in its proprietary information including, without limitation, methodologies and methods of analysis, ideas, concepts, expressions, know how, methods, techniques, skills, knowledge and experience possessed by CONTRACTOR prior to this AGREEMENT.

16.0 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 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 COUNTY:

Contracts/Purchasing Officer
County of Monterey, Contracts/Purchasing
168 W. Alisal Street, 3rd Floor.
Salinas, CA 93901-2439
Tel. No.: (831) 755-4990
FAX No.: (831) 755-4969
derm@co.monterey.ca.us

TO CONTRACTOR:

CSG Consultants, Inc.
Attn: John La Torra
11 Quail Run, #102
Salinas, CA 93907
Tel. No.(605) 208-4264
FAX No.(831) 769-9486
john@csgengr.com

17.0 LEGAL DISPUTES

- 17.1 CONTRACTOR agrees that this AGREEMENT and any dispute arising from the relationship between the parties to this AGREEMENT, shall be governed and interpreted by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws.
- 17.2 Any dispute that arises under or relates to this AGREEMENT (whether contract, tort, or both) shall be resolved in the Superior Court of California in Monterey County, California.
- 17.3 CONTRACTOR shall continue to perform under this AGREEMENT during any dispute.
- 17.4 The parties agree to waive their separate rights to a trial by jury. This waiver means that the trial will be before a judge.

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

MONTEREY COUNTY



Contracts/Purchasing Officer

Dated: 6.28.12

Approved as to Fiscal Provisions:



Deputy Auditor/Controller

Dated: 6/2/12

Approved as to Liability Provisions:

Risk Management

Dated: _____

Approved as to Form:

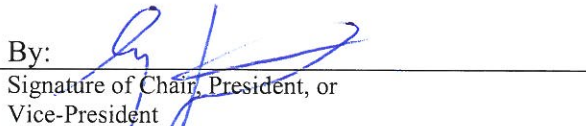


Deputy County Counsel

Dated: 6-7-12

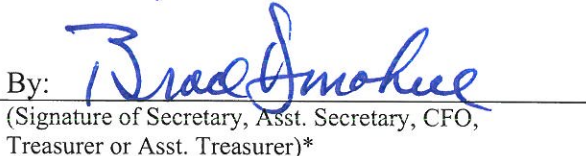
County Board of Supervisors' Agreement Number: _____.

CONTRACTOR

By: 
Signature of Chair, President, or
Vice-President

CYRUS KHANPOUR, P.E., PLS., PRESIDENT
Printed Name and Title

Dated: 6/4/2012

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

BRAN DONOHUE, ASST. SECRETARY
Printed Name and Title

Dated: 6/4/2012

*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.



COUNTY OF MONTEREY
CONTRACTS/PURCHASING DIVISION

April 24, 2012

CSG Consultants, Inc.
 11 Quail Run, #102
 Salinas, CA 93907
ATTN: John La Torra, Regional Manager

RE: RFQ 10336 Plan Review Services, County of Monterey

Dear Mr. La Torra,

The County of Monterey has reviewed and finalized the selection for Request Proposals 10336 to three (3) vendors. The 3 finalist's sealed pricing was then opened and reviewed. Upon review and comparison of pricing, the County is requesting each of the 3 finalist vendors agree to the pricing below for the term of the proposed contracts.

If this is agreeable to you, please sign below and return to me no later than 3:00 PM, Monday April 30, 2012.

| Service: | State your firm's rate as a percentage of the cost of plan review: |
|-------------------------|--|
| Plan Review (regular) | 55% of cost of plan review |
| Accelerated Plan Review | 80% of cost of plan review |

| Service: | State your firm's rate in dollars per each hour: |
|-------------------------------------|--|
| Structural Only Review, Rechecks >3 | \$95 |
| Grading Plan Review | \$110 |
| *Geotechnical Peer Review Report | \$135 |

We are also requesting on larger more complex projects, that we are able to negotiate with the vendor a mutually agreeable fixed flat fee.

By execution of this document, Contractor hereby agrees to the terms and pricing as stated above.

John La Torra, Regional Manager
 Name/Title 4/25/12
Date

Respectfully,

Gina Encallado
 Deputy Purchasing Agent
 831-796-1336
 EncalladoGL@co.monterey.ca.us

Exhibit 1 – Performance Timelines

| <i>Project Type</i> | <i>First Check Turnaround Time (in days)</i> | <i>Re-Check Turnaround Time (in days)</i> |
|--|--|---|
| Residential New Construction | 7 | 5 |
| Residential Additions | 5 | 3 |
| Residential Remodels / Tenant Improvements | 5 | 3 |
| Commercial New Construction | 10 | 5 |
| Commercial Additions | 7 | 5 |
| Commercial Remodels / Tenant Improvements | 7 | 5 |
| Complex Commercial Projects | 10 | 5 |

Note; the turnaround times above do not include *Accelerated Plan Review* requests. Please see RFP Section 5.2.5 for specifics regarding *Accelerated Plan Review* request performance timelines.

Name of Plan Check Company
Address

Phone:
Fax:
Email:



PLAN CHECK COMMENTS

Date:
Plan Check #:
Submittal:
Checked By:

JURISDICTION: County of Monterey

PROJECT ADDRESS:

PROJECT DESCRIPTION:

FIRE SPRINKLERS:

FIRE HAZARD AREA:

SOILS REPORT:

SEISMIC DESIGN CATEGORY:

| | | | | |
|-------------------------|------------------|--------------------------|--------------------|--------------|
| <u>USE OF STRUCTURE</u> | <u>OCCUPANCY</u> | <u>CONSTRUCTION TYPE</u> | <u>AREA (S.F.)</u> | <u>STORY</u> |
|-------------------------|------------------|--------------------------|--------------------|--------------|

INSTRUCTIONS

- A. This plan review has been made to verify conformance to minimum requirements of codes and ordinances adopted by the County of Monterey. Codes in effect for this project include the 2007 editions of the California Building Code (CBC), California Plumbing Code (CPC), California Mechanical Code (CMC), California Energy Code (CEnC), and California Electrical Code (CEC). The CBC is based on the 2006 edition of the International Building Code which was published by the International Code Council. The CPC and CMC are based on the 2006 editions of the Uniform Plumbing and Mechanical Codes, respectively, which were published by IAPMO. The CEC is based on the 2005 edition of the National Electrical Code published by the National Fire Protection Association (NFPA). Applicable code sections are referenced after each item in this list.
- B. Before approval for code compliance or issuance of a building permit, the plans and application for this construction require the information, revisions and corrections indicated on the following pages. The approval of plans and specifications does not permit the violation of any section of the building code, or other ordinance or law.
- C. Plan check fee provides for a maximum of three plan check reviews. There will be an additional plan check fee for any additional plan checks.
- D. Submit a list showing any changes to the plan or previously submitted documents that are not the result of the plan check corrections.
- E. An application for a permit for any proposed work shall expire one hundred eighty (180) days after the date of filing has been issued or the building official has granted an extension of time.

Please make all corrections on the original tracings and submit two new sets of prints to:

Monterey County Resource Management Agency
Building Services Department
168 W. Alisal St., 2nd Floor
Salinas, CA 93901

In order to expedite the plan review process, please provide the name and phone number of the individual who prepared these plan review responses:

NAME: _____ PHONE: _____

The process for providing Responses to these plan check comments is as follows:

- Read the instructions on cover sheet for making corrections and resubmitting plans for approval.
- On the “RESPONSE:” line located below the correction item, write the sheet number, detail number, and/or location indicating where the correction is. Please be specific as to where correction items have been addressed so that recheck may be expedited.
- All comments shall be responded to prior to approval.

CBC COMMENTS/CORRECTIONS



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
01/11/2012

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 0726293 1-415-546-9300
Arthur J. Gallagher & Co.
Insurance Brokers of California, Inc., License #0726293
One Market Plaza, Spear Tower
Suite 200
San Francisco, CA 94105

CONTACT NAME: Don Tarantino
PHONE (A/C No. Excl): 415-536-8617 FAX (A/C No): 415-536-8627
E-MAIL ADDRESS: don.tarantino@ajg.com

INSURED
CSG Consultants Inc.

1700 S. Amphlett Blvd 3rd Floor

San Mateo, CA 94402

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|--|--------|
| INSURER A: TRAVELERS PROP CAS CO OF AMBR | 25674 |
| INSURER B: SENTINEL INS CO LTD | 11000 |
| INSURER C: ARCH INS CO | 11150 |
| INSURER D: | |
| INSURER E: | |
| INSURER F: | |

COVERAGES

CERTIFICATE NUMBER: 25117003

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.

| INBR LTR | TYPE OF INSURANCE | ADDITIONAL INSURED | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|--|--------------------|--------------------|-------------------------|-------------------------|--|
| A | GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input checked="" type="checkbox"/> | X | 880294M0850-TIL-11 | 12/04/11 | 12/04/12 | EACH OCCURRENCE § 1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) § 1,000,000 MED EXP (Any one person) § 10,000 PERSONAL & ADV INJURY § 1,000,000 GENERAL AGGREGATE § 2,000,000 PRODUCTS - COMP/OP AGG § 2,000,000 |
| A | AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS | X | BA61M7612 | 12/04/11 | 12/04/12 | COMBINED SINGLE LIMIT (Per accident) § 1,000,000 BODILY INJURY (Per person) § BODILY INJURY (Per accident) § PROPERTY DAMAGE (Per accident) § |
| A | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTIONS | | CUP294M1060 | 12/04/11 | 12/04/12 | EACH OCCURRENCE § 5,000,000 AGGREGATE § 5,000,000 Following Form § |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | X | 57WEEP4360 | 12/04/11 | 12/04/12 | <input checked="" type="checkbox"/> WC STATUTORY LIMIT <input type="checkbox"/> OTHER E.L. EACH ACCIDENT § 1,000,000 E.L. DISEASE - EA EMPLOYEE § 1,000,000 E.L. DISEASE - POLICY LIMIT § 1,000,000 |
| C | Prof Liability | | AMP004731500 | 12/04/11 | 12/04/12 | Limit 3M11/3M11 Retention 50,000 |

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

County of Monterey, its agents, officers and employees, it is understood and agreed that this insurance is primary (Gen Liability and Auto Liability) and another insurance maintained by the Additional Insured shall be excess only and not contributing with this insurance in regards to all operations as pertains to the Named Insured

Gen Liability Additional Insured endt CG D3020907 / Other Insurance-Additional Insureds CG D0370405

Auto Coverage Plus Endt CA 00 01 03 10 & Business Auto Coverage Form CA 00 01 03 10 (rev 02-11)

Work Comp Broad Form Endt WC 99 03 03 B

Re: All Operations of the Named Insured

CERTIFICATE HOLDER

CANCELLATION

County of Monterey
Contracts/Purchasing Dept.

160 West Alisal St., 3rd 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

USA

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ACORD 25 (2010/05)
abreen
25117003

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SUPPLEMENT TO CERTIFICATE OF INSURANCE

DATE
01/11/2012

NAME OF INSURED: cse Consultants Inc.

Additional Description of Operations/Remarks from Page 1:

Additional Information:

POLICY NUMBER: 680-294MD850-TIL-11

COMMERCIAL GENERAL LIABILITY
ISSUE DATE: 11-07-11

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED
(ARCHITECTS, ENGINEERS AND SURVEYORS)**

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S):

COUNTY OF MONTEREY
ITS AGENTS, OFFICERS AND EMPLOYEES
CONTRACTS/PURCHASING DEPT.
168 WEST ALISAL ST, 3RD FL
SALINAS, CA 93901

PROJECT/LOCATION OF COVERED OPERATIONS:

AS PER WRITTEN CONTRACT OR AGREEMENT

PROVISIONS

A. The following is added to WHO IS AN INSURED (Section II):

The person or organization shown in the Schedule above is an additional insured on this Coverage Part, but only with respect to liability for "bodily injury", "property damage" or "personal injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations;
- b. In connection with premises owned by or rented to you; or
- c. In connection with "your work" and included within the "products-completed operations hazard".

Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

- d. This insurance does not apply to the rendering of or failure to render any "professional services".
- e. The limits of insurance afforded to the additional insured shall be the limits which you agreed in that "contract or agreement requiring insurance" to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part, whichever are less. This endorsement does not increase the limits of insurance stated in the LIMITS OF INSURANCE (Section III) for this Coverage Part.

~~1~~-B. The following is added to Paragraph a. of 4. Other Insurance in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

However, if you specifically agree in a "contract or agreement requiring insurance" that, for the additional insured shown in the Schedule, the insurance provided to that additional insured under this

COMMERCIAL GENERAL LIABILITY

Coverage Part must apply on a primary basis, or a primary and non-contributory basis; this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and We will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have entered into that "contract or agreement requiring insurance" for such additional insured. But this insurance still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when the additional insured is also an additional insured under any other insurance.

C. The following is added to Paragraph 3. Transfer Of Rights Of Recovery Against Others To Us in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

We waive any rights of recovery we may have against the additional insured shown in the Schedule above because of payments we make for "bodily injury", "property damage" or "personal

injury" arising out of "your work" on or for the project, or at the location, shown in the Schedule above, performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that additional insured. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with that additional insured entered into by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

D. The following definition is added to DEFINITIONS (Section V):

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include the person or organization shown in the Schedule as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed;

- a. After you have entered into that contract or agreement;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.
OTHER INSURANCE - ADDITIONAL INSURED

This endorsement modifies Insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

PROVISIONS

COMMERCIAL GENERAL LIABILITY CONDITIONS
(Section IV), Paragraph 4. (Other Insurance), is
amended as follows:

1. The following is added to Paragraph a, Primary Insurance:

However, if you specifically agree in a written contract or written agreement that the insurance provided to an additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with that other insurance, provided that:

- a. The "bodily injury" or "property damage" for which coverage is sought occurs; and

- b. The "personal injury" or "advertising injury" for which coverage is sought arises out of an offense committed

subsequent to the signing and execution of that contract or agreement by you.

2. The first Subparagraph (2) of Paragraph b, Excess Insurance regarding any other primary insurance available to you is deleted.

3. The following is added to Paragraph b, Excess Insurance, as an additional subparagraph under Subparagraph (1):

That is available to the insured when the insured is added as an additional insured under any other policy, including any umbrella or excess policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTO COVERAGE PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

GENERAL DESCRIPTION OF COVERAGE - This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- A. BLANKET ADDITIONAL INSURED
- B. EMPLOYEE HIRED AUTO
- C. EMPLOYEES AS INSURED
- D. SUPPLEMENTARY PAYMENTS - INCREASED LIMITS
- E. TRAILERS - INCREASED LOAD CAPACITY
- F. HIRED AUTO PHYSICAL DAMAGE
- G. PHYSICAL DAMAGE - TRANSPORTATION EXPENSES - INCREASED LIMIT
- H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT - INCREASED LIMIT
- I. WAIVER OF DEDUCTIBLE - GLASS
- J. PERSONAL EFFECTS
- K. AIRBAGS
- L. AUTO LOAN LEASE GAP
- M. BLANKET WAIVER OF SUBROGATION



A. BLANKET ADDITIONAL INSURED

The following is added to Paragraph A.1., Who is An Insured, of SECTION II - LIABILITY COVERAGE:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who is An Insured provision contained in Section II.

B. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph A.1., Who is An Insured, of SECTION II - LIABILITY COVERAGE:

An "employee" of yours is an "insured" while operating a covered "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while

performing duties related to the conduct of your business.

2. The following replaces Paragraph b. in B.5., Other Insurance, of SECTION IV - BUSINESS AUTO CONDITIONS:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

C. EMPLOYEES AS INSURED

The following is added to Paragraph A.1., Who is An Insured, of SECTION II - LIABILITY COVERAGE:

COMMERCIAL AUTO

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

D. SUPPLEMENTARY PAYMENTS - INCREASED LIMITS

1. The following replaces Paragraph A.2.a.(2) of SECTION II - LIABILITY COVERAGE:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph A.2.a.(4) of SECTION II - LIABILITY COVERAGE:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

E. TRAILERS - INCREASED LOAD CAPACITY

The following replaces Paragraph C.1. of SECTION I - COVERED AUTOS:

1. "Trailers" with a load capacity of 3,000 pounds or less designed primarily for travel on public roads.

F. HIRED AUTO PHYSICAL DAMAGE

The following is added to Paragraph A.4., Coverage Extensions, of SECTION III - PHYSICAL DAMAGE COVERAGE:

Hired Auto Physical Damage Coverage

If hired "autos" are covered "autos" for Liability Coverage but not covered "autos" for Physical Damage Coverage, and this policy also provides Physical Damage Coverage for an owned "auto", then the Physical Damage Coverage is extended to "autos" that you hire, rent or borrow subject to the following:

(1) The most we will pay for "loss" in any one "accident" to a hired, rented or borrowed "auto" is the lesser of:

(a) \$50,000;

(b) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

(c) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality,

(2) An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

(3) If a repair or replacement results in better than like kind or quality, we will not pay for the amount of betterment.

(4) A deductible equal to the highest Physical Damage deductible applicable to any owned covered "auto".

(5) This Coverage Extension does not apply to:

(a) Any "auto" that is hired, rented or borrowed with a driver; or

(b) Any "auto" that is hired, rented or borrowed from your "employee".

G. PHYSICAL DAMAGE - TRANSPORTATION EXPENSES - INCREASED LIMIT

The following replaces the first sentence in Paragraph A.4.a., Transportation Expenses, of SECTION III - PHYSICAL DAMAGE COVERAGE:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT - INCREASED LIMIT

Paragraph C.2., Limit Of Insurance, of SECTION III - PHYSICAL DAMAGE COVERAGE is deleted.

I. WAIVER OF DEDUCTIBLE - GLASS

The following is added to Paragraph D., Deductible, of SECTION III - PHYSICAL DAMAGE COVERAGE:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

J. PERSONAL EFFECTS

The following is added to Paragraph A.4., Coverage Extensions, of SECTION III - PHYSICAL DAMAGE COVERAGE:

Personal Effects Coverage

We will pay up to \$400 for "loss" to wearing apparel and other personal effects which are:

(1) Owned by an "insured"; and

(2) In or on your covered "auto".

This coverage only applies in the event of a total theft of your covered "auto".

No deductibles apply to Personal Effects coverage.

K. AIRBAGS

The following is added to Paragraph B.3., Exclusions, of SECTION III - PHYSICAL DAMAGE COVERAGE:

Exclusion 3.a. does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs A.1.b. and A.1.c., but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

L. AUTO LOAN LEASE GAP

The following is added to Paragraph A.4., Coverage Extensions, of SECTION III - PHYSICAL DAMAGE COVERAGE:

Auto Loan Lease Gap Coverage for Private Passenger Type Vehicles

In the event of a total "loss" to a covered "auto" of the private passenger type shown in the Schedule or Declarations for which Physical Damage Coverage is provided, we will pay any unpaid amount due on the lease or loan for such covered "auto" less the following:

- (1) The amount paid under the Physical Damage Coverage Section of the policy for that "auto"; and

(2) Any:

- (a) Overdue lease or loan payments at the time of the "loss";
- (b) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
- (c) Security deposits not returned by the lessor;
- (d) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
- (e) Carry-over balances from previous loans or leases.

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph A.5., Transfer Of Rights Of Recovery Against Others To Us, of SECTION IV - BUSINESS AUTO CONDITIONS:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.



BUSINESS AUTO 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. The words "we", "us" and "our" refer to the company providing this insurance:

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

SECTION I - COVERED AUTOS

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

A. Description Of Covered Auto Designation Symbols

| Symbol | Description Of Covered Auto Designation Symbols |
|--------|--|
| 1 | Any "Auto". |
| 2 | Owned "Autos" Only Only those "autos" you own (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the policy begins. |
| 3 | Owned Private Passenger "Autos" Only Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the policy begins. |
| 4 | Owned "Autos" Other Than Private Passenger "Autos" Only Only those "autos" you own that are not of the private passenger type (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the policy begins. |
| 5 | Owned "Autos" Subject To No-fault Only those "autos" you own that are required to have no-fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are required to have no-fault benefits in the state where they are licensed or principally garaged. |
| 6 | Owned "Autos" Subject To A Compulsory Uninsured Motorists Law Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement. |
| 7 | Specifically Described "Autos" Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three). |
| 8 | Hired "Autos" Only Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent 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. |
| 9 | Non-owned "Autos" Only Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households but only while used in your business or your personal affairs. |

COMMERCIAL AUTO

- | | | |
|----|---|---|
| 19 | Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only | Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged. |
|----|---|---|

B. Owned Autos You Acquire After The Policy Begins

1. If Symbols 1, 2, 3, 4, 5, 6 or 19 are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if Symbol 7 is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
 - a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
 - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos

If Liability Coverage is provided by this coverage form, the following types of vehicles are also covered "autos" for Liability Coverage:

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered "auto".
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
 - a. Breakdown;
 - b. Repair;
 - c. Servicing;
 - d. "Loss"; or
 - e. Destruction.

SECTION II - LIABILITY COVERAGE

A. Coverage

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

1. Who Is An Insured

The following are "insureds":

- a. You for any covered "auto".
- b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:
 - (1) The owner or anyone else from whom you hire or borrow a covered "auto".

This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.

- (2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.
- (3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
- (4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company) or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".
- (5) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.

c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

2. Coverage Extensions

a. Supplementary Payments

We will pay for the "insured":

- (1) All expenses we incur.
- (2) Up to \$2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$250 a day because of time off from work.
- (5) All court costs taxed against the "insured" in any "suit" against the "insured" we defend. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the "insured".

- (6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

b. Out-of-state Coverage Extensions

While a covered "auto" is away from the state where it is licensed we will:

- (1) Increase the Limit of Insurance for Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.
- (2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

B. Exclusions

This insurance does not apply to any of the following:

1. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

2. Contractual

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

- a. 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; or
- b. That the "insured" would have in the absence of the contract or agreement.



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3. Workers' Compensation

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

4. Employee Indemnification And Employer's Liability

"Bodily injury" to:

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

But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract". For the purposes of the coverage form, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

5. Fellow Employee

"Bodily injury" to:

- a. Any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business; or
- b. The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph a. above.

6. Care, Custody Or Control

"Property damage" to or "covered pollution cost or expense" involving property owned or transported by the "insured" or in the "insured's" care, custody or control. But this ex-

clusion does not apply to liability assumed under a sidetrack agreement.

7. Handling Of Property

"Bodily injury" or "property damage" resulting from the handling of property:

- a. Before it is moved from the place where it is accepted by the "insured" for movement into or onto the covered "auto"; or
- b. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured".

8. Movement Of Property By Mechanical Device

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered "auto".

9. Operations

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

- a. Any equipment listed in Paragraphs 6.b. and 6.c. of the definition of "mobile equipment"; or
- b. Machinery or equipment that is on, attached to or part of a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

10. Completed Operations

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In this exclusion, your work means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in Paragraph a. or b. above.

Your work will be deemed completed at the earliest of the following times:

- (1) When all of the work called for in your contract has been completed.

- (2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site.
- (3) 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 sub-contractor 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.

11. Pollution

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
 - (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
 - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
 - (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and

- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraphs 6.b. and 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above of this exclusion do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

12. War

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

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

13. Racing

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

C. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined resulting from any one "accident" is the Limit of Insurance for Liability Coverage shown in the Declarations.

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from



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continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this coverage form and any Medical Payments Coverage endorsement, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

SECTION III - PHYSICAL DAMAGE COVERAGE

A. Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:

- a. **Comprehensive Coverage**

From any cause except:

- (1) The covered "auto's" collision with another object; or
- (2) The covered "auto's" overturn.

- b. **Specified Causes Of Loss Coverage**

Caused by:

- (1) Fire, lightning or explosion;
- (2) Theft;
- (3) Windstorm, hail or earthquake;
- (4) Flood;
- (5) Mischief or vandalism; or
- (6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".

- c. **Collision Coverage**

Caused by:

- (1) The covered "auto's" collision with another object; or
- (2) The covered "auto's" overturn.

2. **Towing**

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

3. **Glass Breakage - Hitting A Bird Or Animal - Falling Objects Or Missiles**

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

- a. Glass breakage;
- b. "Loss" caused by hitting a bird or animal; and
- c. "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

4. **Coverage Extensions**

- a. **Transportation Expenses**

We will pay up to \$20 per day to a maximum of \$600 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes Of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

- b. **Loss Of Use Expenses**

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
- (2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or
- (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is \$20 per day, to a maximum of \$600.

B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or

event that contributes concurrently or in any sequence to the "loss".

a. Nuclear Hazard

- (1) The explosion of any weapon employing atomic fission or fusion; or
- (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. War Or Military Action

- (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.

2. We will not pay for "loss" to any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such a contest or activity.

3. We will not pay for "loss" due and confined to:

- a. Wear and tear, freezing, mechanical or electrical breakdown.
- b. Blowouts, punctures or other road damage to tires.

This exclusion does not apply to such "loss" resulting from the total theft of a covered "auto".

4. We will not pay for "loss" to any of the following:

- a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
- b. Any device designed or used to detect speed-measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed-measurement equipment.
- c. Any electronic equipment, without regard to whether this equipment is permanently

installed, that reproduces, receives or transmits audio, visual or data signals.

d. Any accessories used with the electronic equipment described in Paragraph c. above.

5. 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:

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

6. We will not pay for "loss" to a covered "auto" due to "diminution in value".

C. Limit Of Insurance

1. The most we will pay for "loss" in any one "accident" is the lesser of:

- a. The actual cash value of the damaged or stolen property as of the time of the "loss"; or
- b. The cost of repairing or replacing the damaged or stolen property with other property of like-kind and quality.

2. \$1,000 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:

- a. 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;
- b. Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
- c. An integral part of such equipment.

3. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".



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4. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

D. Deductible

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning.

SECTION IV - BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

A. Loss Conditions

1. Appraisal For Physical Damage Loss

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

2. Duties In The Event Of Accident, Claim, Suit Or Loss

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss". Include:

- (1) How, when and where the "accident" or "loss" occurred;
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

- b. Additionally, you and any other involved "insured" must:

- (1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.

- (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".

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

- (4) Authorize us to obtain medical records or other pertinent information.

- (5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.

- c. If there is "loss" to a covered "auto" or its equipment you must also do the following:

- (1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.

- (2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.

- (3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.

- (4) Agree to examinations under oath at our request and give us a signed statement of your answers.

3. Legal Action Against Us

No one may bring a legal action against us under this coverage form until:

- a. There has been full compliance with all the terms of this coverage form; and
- b. Under Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the "insured's" liability.

4. Loss Payment - Physical Damage Coverages

At our option we may:

- a. Pay for, repair or replace damaged or stolen property;

- b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or
- c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

5. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this coverage form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

B. General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this coverage form.

2. Concealment, Misrepresentation Or Fraud

This coverage form is void in any case of fraud by you at any time as it relates to this coverage form. It is also void if you or any other "insured", at any time, intentionally conceal or misrepresent a material fact concerning:

- a. This coverage form;
- b. The covered "auto";
- c. Your interest in the covered "auto"; or
- d. A claim under this coverage form.

3. Liberalization

If we revise this coverage form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. No Benefit To Bailee - Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this coverage form.

*** 5. Other Insurance**

- a. For any covered "auto" you own, (this coverage form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this coverage form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Liability Coverage this coverage form provides for the "trailer" is:

- (1) Excess while it is connected to a motor vehicle you do not own.
- (2) Primary while it is connected to a covered "auto" you own.

- b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

- c. Regardless of the provisions of Paragraph a. above, this coverage form's Liability Coverage is primary for any liability assumed under an "insured contract".

- d. When this coverage form and any other coverage form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our coverage form bears to the total of the limits of all the coverage forms and policies covering on the same basis.

6. Premium Audit

- a. The estimated premium for this coverage form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.
- b. If this policy is issued for more than one year, the premium for this coverage form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.



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7. Policy Period, Coverage Territory

Under this coverage form, we cover "accidents" and "losses" occurring:

a. During the policy period shown in the Declarations; and

b. Within the coverage territory.

The coverage territory is:

- (1) The United States of America;
- (2) The territories and possessions of the United States of America;
- (3) Puerto Rico;
- (4) Canada; and
- (5) Anywhere in the world if:
 - (a) A covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less; and
 - (b) The "insured's" responsibility to pay damages is determined in a "suit" on the merits, 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.

We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

8. Two Or More Coverage Forms Or Policies Issued By Us

If this coverage form and any other coverage form or policy issued to you by us or any company affiliated with us applies to the same "accident", the aggregate maximum Limit of Insurance under all the coverage forms or policies shall not exceed the highest applicable Limit of Insurance under any one coverage form or policy. This condition does not apply to any coverage form or policy issued by us or an affiliated company specifically to apply as excess insurance over this coverage form.

SECTION V - DEFINITIONS

- A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".
- B. "Auto" means:
1. A land motor vehicle, "trailer" or semitrailer designed for travel on public roads; or

2. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

C. "Bodily injury" means bodily injury, sickness or disease sustained by a person including death resulting from any of these.

D. "Covered pollution cost or expense" means any cost or expense arising out of:

1. Any 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. Any 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".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
 - (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
 - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
 - (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other simi-

lar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraph 6.b, or 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

E. "Diminution in value" means the actual or perceived loss in market value or resale value which results from a direct and accidental "loss".

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

G. "Insured" means any person or organization qualifying as an insured in the Who Is An Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.

H. "Insured contract" means:

1. A lease of premises;
2. A sidetrack agreement;
3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

5. 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 to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement;
6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".

An "insured contract" does not include that part of any contract or agreement:

- a. 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, roadbeds, tunnel, underpass or crossing;
- b. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
- c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.

I. "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".

J. "Loss" means direct and accidental loss or damage.

K. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;



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2. Vehicles maintained for use solely on or next to premises you own or rent;
 3. Vehicles that travel on crawler treads;
 4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - a. Power cranes, shovels, loaders, diggers or drills; or
 - b. Road construction or resurfacing equipment such as graders, scrapers or rollers;
 5. Vehicles not described in Paragraph 1., 2., 3. or 4. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well-servicing equipment; or
 - b. Cherry pickers and similar devices used to raise or lower workers; or
 6. Vehicles not described in Paragraph 1., 2., 3. or 4. 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":
 - a. Equipment designed primarily for:
 - (1) Snow removal;
 - (2) Road maintenance, but not construction or resurfacing; or
 - (3) Street cleaning;
 - b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well-servicing equipment.
- However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".
- L. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
 - M. "Property damage" means damage to or loss of use of tangible property.
 - N. "Suit" means a civil proceeding in which:
 1. Damages because of "bodily injury" or "property damage"; or
 2. A "covered pollution cost or expense";to which this insurance applies, are alleged.
- "Suit" includes:
- a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" 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 or "covered pollution costs or expenses" are claimed and to which the insured submits with our consent.
- O. "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.
 - P. "Trailer" includes semitrailer.

SECTION I

PARTS ONE and TWO

1. WE WILL ALSO PAY

- D. We Will Also Pay of Part One (WORKERS' COMPENSATION INSURANCE); and
- E. We Will Also Pay of Part Two (EMPLOYERS' LIABILITY INSURANCE) is replaced by the following:

We Will Also Pay

We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding, or suit we defend:

1. reasonable expenses incurred at our request, INCLUDING loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the limit of our liability under this insurance;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this law; and
5. expenses we incur.

PART THREE

2. How This Insurance Applies

Paragraph 4. of A. How This Insurance Applies of Part 3 (Other States Insurance) is replaced by the following:

4. If you have work on the effective date of this policy in any state not listed in Item 3.A. of the information Page, coverage will not be afforded for that state unless we are notified within sixty days.

PART SIX

2. Transfer Of Your Rights and Duties

- C. Transfer Of Your Rights and Duties of Part 6 (Conditions) is replaced by the following:

Your rights or duties under this policy may not be transferred without our written consent.

If you die and we receive notice within sixty days after your death, we will cover your legal representative as insured.

4. Liberalization

If we adopt a change in this form that would broaden the coverage of this form without extra charge, the broader coverage will apply to this policy. It will apply when the change becomes effective in your state.

SECTION II

VOLUNTARY COMPENSATION AND EMPLOYERS' LIABILITY COVERAGE

5. Voluntary Compensation Insurance

A. How This Insurance Applies

This insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must be sustained by any officer or employee not subject to the workers' compensation law of any state shown in Item 3.A. of the information Page.
2. The bodily injury must arise out of and in the course of employment or incidental to work in a state shown in Item 3.A. of the information Page.

3. The bodily injury must occur in the United States of America, its territories or possessions, or Canada, and may occur elsewhere if the employee is a United States or Canadian citizen, or otherwise legal resident, and legally employed, in the United States or Canada and temporarily away from those places.
4. Bodily injury by accident must occur during the policy period.
5. Bodily injury by disease must be caused or aggravated by the conditions of the

officer's or employee's employment. The officer's or employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.

E. We Will Pay

We will pay an amount equal to the benefits that would be required of you as if you and your employees were subject to the workers' compensation law of any state shown in Item 3.A. of the Information Page. We will pay those amounts to the persons who would be entitled to them under the law.

C. Exclusion

This insurance does not cover:

1. any obligation imposed by workers' compensation or occupational disease law or any similar law.
2. bodily injury intentionally caused or aggravated by you.
3. officers or employees who have elected not to be subject to the state workers' compensation law.
4. partners or sole proprietors not covered under the Standard Sole Proprietors, Partners, Officers and Others Coverage Endorsement.

D. Before We Pay

Before we pay benefits to the persons entitled to them, they must:

1. Release you and us, in writing, of all responsibility for the injury or death.
2. Transfer to us their right to recover from others who may be responsible for the injury or death.
3. Cooperate with us and do everything necessary to enable us to enforce the right to recover from others.

If the persons entitled to the benefits of this insurance fail to do those things, our duty to pay ends at once. If they claim damages from you or from us for the injury or death, our duty to pay ends at once.

E. Recovery From Others

If we make a recovery from others, we will keep an amount equal to our expenses of recovery and the benefits we paid. We will pay the balance to the persons entitled to it.

If the persons entitled to the benefits of this insurance make a recovery from others, they must reimburse us for the benefits we paid them.

F. Employers' Liability Insurance

Part Two (Employers' Liability Insurance) applies to bodily injury covered by this endorsement as though the State of Employment was shown in Item 3.A. of the Information Page.

This provision 5. does not apply in New Jersey or Wisconsin.

EMPLOYERS' LIABILITY STOP GAP COVERAGE

6. Employers' Liability Stop Gap Coverage

- A. This coverage only applies in Montana, North Dakota, Ohio, Washington, West Virginia and Wyoming.
- B. Part One (Workers' Compensation Insurance) does not apply to work in states shown in Paragraph A above.
- C. Part Two (Employers' Liability Insurance) applies in the states, shown in Paragraph A., as though they were shown in Item 3.A. of the Information Page.

- D. Part Two, Section C, Exclusions is changed by adding these exclusions.

This insurance does not cover:

5. bodily injury intentionally caused or aggravated by you or in Ohio bodily injury resulting from an act which is determined by an Ohio court of law to have been committed by you with the belief that an injury is substantially certain to occur. However, the cost of defending such claims or suits in Ohio is covered.

13. bodily injury sustained by any member of the flying crew of any aircraft.

14. any claim for bodily injury with respect to which you are deprived of any defense or defenses or are otherwise subject to penalty because of default in premium under the provisions of the workers' compensation law or laws of a state shown in Paragraph A.

- E. This insurance applies to damages for which you are liable under West Virginia Code Annot. § 20-4-2.

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EXTENDED OPTIONS

1. Employers' Liability Insurance

Item 3.B. of the Information Page is replaced by the following:

B. Employers' Liability Insurance:

1. Part Two of the policy applies to work in each state listed in Item 3.A.

The Limits of Liability under Part Two are the higher of:

| | | |
|--------------------------------------|------------------|---------------|
| Bodily Injury by Accident | <u>\$500,000</u> | Each Accident |
| Bodily Injury by Disease | <u>\$500,000</u> | Policy Limit |
| Bodily Injury by Disease | <u>\$500,000</u> | Each Employee |

OR

2. The amount shown in the Information Page.

This provision 1 of EXTENDED OPTIONS does not apply in New York because the Limits Of Our Liability are unlimited.

In this provision the limits are changed from \$500,000 to \$1,000,000 in California.

2. Unintentional Failure to Disclose Hazards

If you unintentionally should fail to disclose all existing hazards at the inception date of your policy, we shall not deny coverage under this policy because of such failure.

3. Waiver of Our Right To Recover From Others

- A. We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against any person or organization for whom you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the agreement.

- B. This provision 3. does not apply in the states of Pennsylvania and Utah.

4. Foreign Voluntary Compensation and Employers' Liability Reimbursement

A. How This Reimbursement Applies

This reimbursement provision applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must be sustained by an officer or employee.
2. The bodily injury must occur in the course of employment necessary or incidental to work in a country not listed in Exclusion C.1. of this provision.
3. Bodily injury by accident must occur during the policy period.
4. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The officer or employee's last exposure to those conditions of your employment must occur during the policy period.

B. We Will Reimburse

We will reimburse you for all amounts paid by you whether such amounts are:

1. voluntary payments for the benefits that would be required of you if you and your officers or employees were subject to any workers' compensation law of the state of hire of the individual employee.
2. sums to which Part Two (Employers' Liability Insurance) would apply if the Country of Employment were shown in Item 3.A. of the Information Page.

C. Exclusions

This insurance does not cover:

1. any occurrences in the United States, Canada, and any county or jurisdiction which is the subject of trade or economic sanctions imposed by the laws or regulations of the United States of America in effect as of the inception date of this policy.
2. any obligation imposed by a workers' compensation or occupational disease law, or similar law.
3. bodily injury intentionally caused or aggravated by you.

4. liability for any consequence, whether direct or indirect, of war, invasion, act of Foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power. No endorsement now or subsequently attached to this policy shall be construed as overriding or waiving this limitation unless specific reference is made thereto.

D. Before We Pay

Before we reimburse you for the benefits to the persons entitled to them, you must have them:

1. release you and us, in writing, of all responsibility for the injury or death,
2. transfer to us their right to recover from others who may be responsible for their injury or death,
3. cooperate with us and do everything necessary to enable us to enforce the right to recover from others.

If the persons entitled to the benefits paid fail to do these things, our duty to reimburse ends at once. If they claim damages from us for the injury or death, our duty to reimburse ends at once.

E. Recovery From Others

If we make a recovery from others, we will keep an amount equal to our expenses of recovery and the benefits we reimbursed. We will pay the balance to the persons entitled to it. If persons entitled to the benefits make a recovery from others, they must repay us for the amounts that we have reimbursed you.

F. Reimbursement for Actual Loss Sustained

This endorsement provides only for reimbursement for the loss you actually sustain. In order for you to recover loss or expenses under this reimbursement you must:

1. actually sustain and pay the loss or expense in money after trial, or
2. secure our consent for the payment of the loss or expense.

G. Repatriation

Our reimbursement includes the additional expenses of repatriation to the United States

of America necessarily incurred as a direct result of bodily injury.

Our reimbursement shall be limited as follows:

1. to the amount by which such expenses exceed the normal cost of returning the officer or employee if in good health, or
2. in the event of death, to the amount by which such expenses exceed the normal cost of returning the officer or employee if alive and in good health.

In no event shall our reimbursement exceed the bodily injury by accident limit shown in Item 3.B. of the Information Page as respects any one such officer or employee whether dead or alive.

H. Endemic Disease

The word "disease" includes any endemic diseases.

The coverage applies as if endemic diseases were included in the provisions of the workers' compensation law.

E. Longshore and Harbor Workers' Compensation Act Coverage

General Section C. Workers' Compensation Law is replaced by the following:

C. Workers' Compensation Law

Workers' Compensation Law means the workers or workers' compensation law and occupational disease law of each state or territory named in Item 3.A. of the Information Page and the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950). It includes any amendments to those laws that are in effect during the policy period. It does not include any other federal workers or workers' compensation law, other federal occupational disease law or the provisions of any law that provide nonoccupational disability benefits.

Part Two (Employers' Liability Insurance), C. Exclusions, exclusion B, does not apply to work subject to the Longshore and Harbor Workers' Compensation Act.

This coverage does not apply to work subject to the Defense Base Act, the Outer Continental Shelf Lands Act, or the Nonappropriated Fund Instrumentalities Act.

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SECTION III

1. SCHEDULE OF COVERED STATES

A. This endorsement only applies in the states listed in this Schedule of Covered States.

B. If a state, shown in Item B.A. of the Information Page, approves this endorsement after the effective date of this policy, this endorsement will apply to this policy. The coverage will apply in the new state on the effective date of the state approval.

C. Schedule of Covered States:

CA

Countersigned by _____
Authorized Representative