

**AGREEMENT**

Division 00500

THIS AGREEMENT is made by and between COUNTY OF MONTEREY, a political subdivision of the State of California, hereinafter called "COUNTY," and Jacob Construction and Design, Inc. hereinafter called "CONTRACTOR." For reference purposes, the date of this Agreement is the last date opposite the respective signatures below.

COUNTY and CONTRACTOR hereby agree as follows:

**ARTICLE 1. SCOPE OF WORK**

This Job Order Contract (JOC) is an indefinite quantity contract pursuant to which CONTRACTOR will perform a variety of Job Orders, consisting of specific construction tasks. The scope of this JOC is for general construction, repair, remodel and other repetitive related Work. COUNTY has published a Construction Task Catalog<sup>®</sup> (CTC) containing a series of construction tasks with preset Unit Prices. The CTC was developed using experienced labor and high quality materials. All Unit Prices are based on local labor, material and equipment prices including the current prevailing wages. CONTRACTOR will bid Adjustment Factors to be applied to the Unit Prices. The price of an individual Job Order will be determined by multiplying the preset Unit Prices and the appropriate quantities by the appropriate Adjustment Factor.

The scope of work for this Contract will be determined by the Detailed Scopes of Work issued in connection with individual Job Orders. The Scope of Work (SOW), for each Job Order will be explained to CONTRACTOR at a Joint Scope Meeting. COUNTY will provide a Request for Job Order Proposal and Detailed SOW to CONTRACTOR. CONTRACTOR will be required to review the Detailed SOW and develop a Price Proposal using appropriate tasks, quantities and the applicable Adjustment Factor. COUNTY will review CONTRACTOR's Proposal in detail and if found to be reasonable and acceptable, a Job Order may be issued. The agreed-upon price will be fixed price for the performance of the Detailed SOW.

CONTRACTOR shall, within the time stipulated, perform the contract **checked below** as herein defined and shall furnish all Work, labor, equipment, transportation, material, and services to construct and complete in a good, expeditious, workmanlike, and substantial manner, the project:

- PROJECT NO. JOC, BID NO. FACILITIES 2020-01**
- PROJECT NO. JOC, BID NO. FACILITIES 2020-02**
- PROJECT NO. JOC, BID NO. FACILITIES 2020-03**

**ARTICLE 2. TIME FOR START AND COMPLETION**

Contract Time commences upon the written execution of the Contract by COUNTY and shall end either one year from the date signed by COUNTY or upon the payment by COUNTY to CONTRACTOR of the maximum amount payable under this Agreement, whichever occurs earlier. COUNTY will not issue any new Job Orders after the expiration of this Agreement. Any Job Order authorized prior to the expiration of the Agreement must be completed within the

time specified in the Job Order. In the event the scheduled completion for any Job Order extends beyond the term of this Agreement, CONTRACTOR and COUNTY agree that the terms of this Agreement shall continue in effect and be applicable for such Job Orders. A separate Job Order Notice to Proceed (NTP) will be issued for each Job Order. Each Job Order will specify a time limit for completion as stated on the Job Order NTP.

### ARTICLE 3. ADJUSTMENT FACTORS

CONTRACTOR shall perform all Work required, necessary, proper for, or incidental to completing the Detailed SOW called for in each individual Job Order issued pursuant to this Contract for the Unit Prices set forth in the CTC. COUNTY shall pay CONTRACTOR the Job Order Price for completion of Work in accordance with Contract Documents and the Detailed SOW described in each Job Order multiplied by the following Adjustment Factors:

#### ADJUSTMENT FACTORS

The Minimum Contract Value is \$25,000. CONTRACTOR will receive Job Orders totaling at least \$25,000 during the Contract term. The Maximum Contract Value is \$5,098,418 for the **JOC FACILITIES**  2020-01 or  2020-02 or  2020-03. COUNTY does not guarantee CONTRACTOR will receive this volume of Work. COUNTY may award contracts or issue Job Orders to other contractors for the same or similar Work during the term of this Agreement. In no event will CONTRACTOR be issued Job Orders which, in total, exceed the Maximum Contract Value. At no time may the sum of the outstanding Job Orders exceed the amount of the Payment Bond and Performance Bond. A Job Order is outstanding until COUNTY has accepted the Work described in the Job Order by recordation of a Notice of Completion. CONTRACTOR will not be issued Job Orders which in total exceed the Maximum Contract Value.

ITEM	DESCRIPTION	ADJUSTMENT FACTORS
1.	<b>Normal Working Hours—General Facilities</b> 7 a.m. to 5 p.m. Monday through Friday	1.1527
2.	<b>Other than Normal Working Hours—General Facilities</b> Hours outside of Normal Working Hours including all day Saturday, Sunday, and COUNTY Holidays	1.1600
3.	<b>Normal Working Hours – Detention Facilities</b> 7 a.m. to 5 p.m. Monday through Friday	1.1600
4.	<b>Other than Normal Working Hours—Detention Facilities</b> Hours outside of Normal Working Hours including all day Saturday, Sunday, and COUNTY Holidays	1.1617

### ARTICLE 4. LIQUIDATED DAMAGES

COUNTY and CONTRACTOR recognize that time is of the essence of this Agreement and that County will suffer financial loss, if all or any part of the Work is not completed within the time specified in the Job Order, plus any extensions thereof. Accordingly, COUNTY and CONTRACTOR agree that liquidated damages for delay will be established by COUNTY for each Job Order. CONTRACTOR shall pay COUNTY the dollar amount stipulated in the Job Order for each day that expires after the time specified therein for CONTRACTOR to achieve Completion.

These measures of liquidated damages shall apply cumulatively and except as provided below, shall be presumed to be the damages suffered by COUNTY resulting from delay in completion of the Work.

Liquidated damages for delay shall only cover project administrative (such as Project management and consultant expenses) and cost damages suffered by COUNTY as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from Defective Work, lost revenues or costs of substitute facilities, or damages suffered by others who then seek to recover their damages from COUNTY (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties), and defense costs thereof.

#### ARTICLE 5. NOTIFICATION OF THIRD-PARTY CLAIMS

COUNTY shall notify CONTRACTOR of the receipt of any third-party claim relating to the contract and is entitled to recover its reasonable costs incurred in providing the notification as provided in Public Contract Code Section 9201.

#### ARTICLE 6. COMPONENT PARTS OF THIS CONTRACT

The Contract entered into by this Agreement consists of the following Contract Documents, all of which are component parts of the Contract as if herein set out in full or attached hereto:

- Notice to Bidders
- Information for Bidders
- Bid, as accepted
- Noncollusion Affidavit
- Workers' Compensation Certificate
- Statement Concerning Employment of Undocumented Aliens
- Iran Contracting Certification
- Contractor's Certification of Good Faith Effort to Employ Monterey Bay Area Residents
- Written Plan to Recruit Monterey Bay Area Residents, when applicable
- Bid Bond or Bidder's Security
- Agreement
- Performance Bond
- Payment Bond
- Insurance Certificate
- Division 00710 General Conditions, **Bid Nos. FACILITIES 2020-01, FACILITIES 2020-02, FACILITIES 2020-03**
- Project Specifications
- Construction Task Catalog®
- Technical Specifications
- Community Development Block Grant (CDBG) Standard Provisions and Requirements
- Federal Provisions-Caltrans Local Assistance Manual
- Federal Emergency Management Agency (FEMA) Standard Provisions and Requirements
- Monterey County Telecommunications Cabling and Pathway Systems Requirements
- As issued, Addenda Nos: 1 and 2

All of the above-named Contract Documents are intended to be complementary. Work required by one of the above-named Contract Documents and not by others shall be done as if required by all.

IN WITNESS WHEREOF, the parties have duly executed four (4) identical counterparts of this instrument, each of which shall be for all purposes deemed an original thereof, on the dates set forth below.

**COUNTY OF MONTEREY**

**By:** \_\_\_\_\_  
**Name:** Carl P. Holm, AICP  
**Title:** Resource Management Agency (RMA) Director

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

**APPROVED AS TO FORM**

**CONTRACTS/PURCHASING**

**By:** \_\_\_\_\_

**Name:** Michael R. Derr  
**Title:** Contracts/Purchasing Officer  
**Date:** \_\_\_\_\_

**APPROVED AS TO FORM**

**OFFICE OF THE COUNTY COUNSEL**

Leslie Girard, County Counsel

**By:**  \_\_\_\_\_  
DocuSigned by:  
083342707AC681A

Mary Grace Perry, Deputy County Counsel  
**Date:** 9/28/2020

**APPROVED AS TO FISCAL TERMS**

**COUNTY AUDITOR-CONTROLLER**

Rupa Shah, Auditor Controller

**By:**  \_\_\_\_\_  
DocuSigned by:  
035348FC10849

**Name:** Gary Giboney  
**Title:** Chief Deputy Auditor-Controller  
**Date:** 9/28/2020

**APPROVED AS TO INDEMNITY/INSURANCE PROVISIONS**

OFFICE OF THE COUNTY COUNSEL-RISK MANAGEMENT,  
Leslie Girard, County Counsel-Risk Manager

**By:**  \_\_\_\_\_  
DocuSigned by:  
08974280FC32484

Leslie J. Girard, County Counsel-Risk Manager  
**Date:** 9/28/2020

**CONTRACTOR: NAME OF COMPANY**

**By:** Jacob Construction & Design, Inc.  
**Name:** Jacob Pickering  
**Title:** President

*(Per California Corporations Code Section 313, for Corporations, first signatory should be Chair, President OR Vice President)*

**Date:** 09/21/2020

**& By:** Jacob Construction & Design, Inc.

**Name:** Jacob Pickering  
**Title:** Secretary/Treasurer

*(Per California Corporations Code Section 313, for Corporations, second signatory should be the Secretary, Assistant Secretary, Treasurer, Assistant Treasurer OR CFO)*

**Date:** 09/21/2020

**COMPANY ADDRESS:**

STREET ADDRESS: 2436 BROAD STREET SUITE A

CITY/STATE/ZIP: SAN LUIS OBISPO, CA 93401

**Contractor's License Type: B**

**License Number:** 900736

**License Expiration Date:** 04/30/2022

**NOTE:** CONTRACTORS ARE REQUIRED TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P O BOX 26000, SACRAMENTO, CALIFORNIA 95826

**INSTRUCTIONS:** If bidder is a corporation, the full legal name of the corporation shall be set forth above together with the signatures of two (2) officers authorized to sign per California Corporations Code Section 313 and the document shall bear the corporate seal; if bidder is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers; if bidder is a partnership, the full name of the firm shall be set forth above together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership; and if bidder is an individual, his/her signature shall be placed above.





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
**09/22/2020**

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

<b>PRODUCER</b> Peterson & Grantham Insurance Brokers 3005 Douglas Blvd. Suite 140 Roseville, CA 95661 License #: 0G05786	<b>CONTACT NAME:</b> Arrow Grantham <b>PHONE (A/C, No, Ext):</b> (916)431-0400 <b>FAX (A/C, No):</b> (916)431-0246 <b>E-MAIL ADDRESS:</b> arrow@pngiits.com														
<b>INSURED</b> Jacob Construction and Design, Inc 2436 Broad St Ste A San Luis Obispo, CA 93401-5702	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;"><b>INSURER(S) AFFORDING COVERAGE</b></td> <td style="width: 20%;"><b>NAIC #</b></td> </tr> <tr> <td><b>INSURER A:</b> Kinsale Ins Co</td> <td></td> </tr> <tr> <td><b>INSURER B:</b> Mercury Insurance</td> <td style="text-align: center;"><b>38342</b></td> </tr> <tr> <td><b>INSURER C:</b> RSUI Indemnity Company</td> <td></td> </tr> <tr> <td><b>INSURER D:</b> State Compensation Insurance Fund</td> <td></td> </tr> <tr> <td><b>INSURER E:</b></td> <td></td> </tr> <tr> <td><b>INSURER F:</b></td> <td></td> </tr> </table>	<b>INSURER(S) AFFORDING COVERAGE</b>	<b>NAIC #</b>	<b>INSURER A:</b> Kinsale Ins Co		<b>INSURER B:</b> Mercury Insurance	<b>38342</b>	<b>INSURER C:</b> RSUI Indemnity Company		<b>INSURER D:</b> State Compensation Insurance Fund		<b>INSURER E:</b>		<b>INSURER F:</b>	
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<b>INSURER D:</b> State Compensation Insurance Fund															
<b>INSURER E:</b>															
<b>INSURER F:</b>															

**COVERAGES**      **CERTIFICATE NUMBER:** 00016057-446117      **REVISION NUMBER:** 26

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

INSR	TYPE OF INSURANCE	ADDL	SUBR	INSD	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
<b>A</b>	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GENTL AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	Y	Y	0100032973-4	10/25/2019	10/25/2020	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>100,000</b> MED EXP (Any one person) \$ <b>Excluded</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b> \$
<b>B</b>	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY	Y	Y	Y	Y	BA040000020676	02/20/2020	02/20/2021	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
<b>C</b>	<input type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED:    RETENTIONS:	Y	Y	Y	Y	NHA248131	10/25/2019	10/25/2020	EACH OCCURRENCE \$ <b>4,000,000</b> AGGREGATE \$ \$
<b>D</b>	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input checked="" type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	Y	N/A	Y	N/A	9123363-20	02/27/2020	02/27/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER <b>1,000,000</b> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
 In Regards to Monterey JOC Facilities 2020-03 County of Monterey, its officers, agents, and employees as Additional Insureds on GL per attached CG 20370704 & CG20100704 and Auto per attached form MCA85100817-CA Business Auto Broadening Endorsement 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

<b>CERTIFICATE HOLDER</b>  Monterey County 168 W. Alisal Street, 2nd Floor Salinas, CA 93901	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE  (AMG)
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS  
SCHEDULED PERSON OR ORGANIZATION**

<i>Attached To and Forming Part of Policy</i> 0100032973-4	<i>Effective Date of Endorsement</i> 10/25/2019 12:01AM at the Named Insured address shown on the Declarations	<i>Named Insured</i> Jacob Construction and Design Inc
<i>Additional Premium:</i> \$0	<i>Return Premium:</i> \$0	

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

SCHEDULE	
Name of Additional Insured Person(s) or Organization(s):	Location(s) of Covered Operations
Blanket, as required by written contract, executed prior to the start of work on the project	Locations as required and specified by written contract, executed prior to the start of work on the project.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

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

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

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

**ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS**

<i>Attached To and Forming Part of Policy</i> 0100032973-4	<i>Effective Date of Endorsement</i> 10/25/2019 12:01AM at the Named Insured address shown on the Declarations	<i>Named Insured</i> Jacob Construction and Design Inc
<i>Additional Premium:</i> \$0	<i>Return Premium:</i> \$0	

**This endorsement modifies insurance provided under the following:**

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**SCHEDULE**

<b>Name of Additional Insured Person(s) or Organization(s)</b>	<b>Location and Description of Completed Operations</b>
Blanket, as required by written contract, executed prior to the start of work on the project	Locations as required and specified by written contract, executed prior to the start of work on the project.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury” or “property damage” caused, in whole or in part, by “your work” at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the “products-completed operations hazard”.

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY ENDORSEMENT**

<i>Attached To and Forming Part of Policy</i> 0100032973-4	<i>Effective Date of Endorsement</i> 10/25/2019 12:01AM at the Named Insured address shown on the Declarations	<i>Named Insured</i> Jacob Construction and Design Inc
<i>Additional Premium:</i> \$0	<i>Return Premium:</i> \$0	

This endorsement modifies insurance provided under the following:

- COMMERCIAL GENERAL LIABILITY COVERAGE
- PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE
- ENVIRONMENTAL CONTRACTING AND PROFESSIONAL SERVICES LIABILITY COVERAGE
- PRODUCTS POLLUTION LIABILITY COVERAGE
- PREMISES ENVIRONMENTAL LIABILITY INSURANCE COVERAGE
- ENVIRONMENTAL COMBINED LIABILITY POLICY - ALL COVERAGE PARTS

The insurance provided to Additional Insureds shall be excess with respect to any other valid and collectible insurance available to the Additional Insured unless the written contract specifically requires that this insurance apply on a primary and non-contributory basis, in which case this insurance shall be primary and non-contributory.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US-BLANKET**

<i>Attached To and Forming Part of Policy</i> 0100032973-4	<i>Effective Date of Endorsement</i> 10/25/2019 12:01AM at the Named Insured address shown on the Declarations	<i>Named Insured</i> Jacob Construction and Design Inc
<i>Additional Premium:</i> \$0	<i>Return Premium:</i> \$0	

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE**

**SECTION IV – CONDITIONS, 8. Transfer of Rights of Recovery against Others to Us** is amended by the addition of the following:

We waive any right of recovery we may have against persons or organizations because of payments we make for injury or damage arising out of "your work" done under a written contract with that person or organization wherein you have agreed to provide this waiver.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

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

## **Business Auto Broadening Endorsement**

This endorsement modifies insurance provided under the following:

### **BUSINESS AUTO COVERAGE FORM**

- I. NEWLY ACQUIRED OR FORMED ENTITY (BROAD FORM NAMED INSURED)
- II. EMPLOYEES AS INSURED
- III. AUTOMATIC ADDITIONAL INSURED
- IV. EMPLOYEE HIRED AUTO LIABILITY
- V. SUPPLEMENTARY PAYMENTS
- VI. FELLOW EMPLOYEE COVERAGE
- VII. ADDITIONAL TRANSPORTATION EXPENSE
- VIII. HIRED AUTO PHYSICAL DAMAGE COVERAGE
- IX. ACCIDENTAL AIRBAG DEPLOYMENT COVERAGE
- X. LOAN/LEASE GAP COVERAGE
- XI. GLASS REPAIR – DEDUCTIBLE WAIVER
- XII. TWO OR MORE DEDUCTIBLES
- XIII. AMENDED DUTIES IN EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS
- XIV. WAIVER OF SUBROGATION
- XV. UNINTENTIONAL ERROR, OMISSION, OR FAILURE TO DISCLOSE HAZARDS
- XVI. EMPLOYEE HIRED AUTO PHYSICAL DAMAGE
- XVII. PRIMARY AND NONCONTRIBUTORY IF REQUIRED BY CONTRACT
- XVIII. HIRED AUTO – COVERAGE TERRITORY
- XIX. BODILY INJURY REDEFINED TO INCLUDE RESULTANT MENTAL ANGUISH

## BUSINESS AUTO COVERAGE FORM

### I. NEWLY ACQUIRED OR FORMED ENTITY (Broad Form Named Insured)

SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who Is An Insured, the following is added:

- d. Any business entity newly acquired or formed by you during the policy period provided you own 50% or more of the business entity and the business entity is not separately insured for Business Auto Coverage. Coverage is extended up to a maximum of 180 days following acquisition or formation of the business entity. Coverage under this provision is afforded only until the end of the policy period. Coverage does not apply to an "accident" which occurred before you acquired or formed the organization.

### II. EMPLOYEES AS INSURED

SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who Is An Insured, the following is added:

- e. 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.

### III. AUTOMATIC ADDITIONAL INSURED

SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who Is An Insured, the following is added:

- f. Any person or organization that you are required to include as additional insured on the Coverage Form in a written contract or agreement that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period 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.

### IV. EMPLOYEE HIRED AUTO LIABILITY

SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who Is An Insured, the following is added:

- g. An "employee" of yours is an "insured" while operating an "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.

### V. SUPPLEMENTARY PAYMENTS

SECTION II - LIABILITY COVERAGE, A. Coverage, 2. Coverage Extensions, a. Supplementary Payments, Subparagraphs (2) and (4) are replaced by the following:

- (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 are not obligated to furnish these bonds.
- (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.

**VI. FELLOW EMPLOYEE COVERAGE:**

SECTION II – LIABILITY COVERAGE, B. Exclusions, 5. Fellow Employee

This exclusion does not apply if you have workers' compensation insurance in-force covering all of your "employees". Coverage is excess over any other collectible insurance.

**VII. ADDITIONAL TRANSPORTATION EXPENSE**

SECTION III - PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions, a. Transportation Expenses, is replaced with the following:

We will pay up to \$50 per day to a maximum of \$1000 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". If your business shown in the Declarations is other than an auto dealership, we will also pay up to \$1,000 for reasonable and necessary costs incurred by you to return a stolen covered auto from the place where it is recovered to its usual garaging location.

**VIII. HIRED AUTO PHYSICAL DAMAGE COVERAGE**

SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions, the following is added:

- c. If Liability Coverage is provided in this policy on a Symbol 1 or a Symbol 8 basis and Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this coverage form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire, subject to the following limit:
- (1) The most we will pay for "loss" to any hired "auto" is \$50,000 or Actual Cash Value or Cost of Repair, whichever is less
  - (2) \$500 deductible will apply to any loss under this coverage extension, except that no deductible shall apply to "loss" caused by fire or lightning
- Subject to the above limit and deductible we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own of similar size and type. This coverage extension is excess coverage over any other collectible insurance.

**IX. ACCIDENTAL AIRBAG DEPLOYMENT COVERAGE**

SECTION III - PHYSICAL DAMAGE COVERAGE, B. Exclusions, 3.a., is amended to add the following:

This exclusion does not apply to the accidental discharge of an airbag.



**X. LOAN/LEASE GAP COVERAGE**

SECTION III - PHYSICAL DAMAGE COVERAGE C. Limit of Insurance, the following is added:

4. In the event of a "total loss" to a covered "auto" shown in the schedule or declarations for which Collision and Comprehensive Coverage apply, we will pay any unpaid amount due on the lease or loan for that covered "auto," less:
- a. The amount paid under the Physical Damage Coverage Section of the policy; and
  - b. Any:
    - (1) Overdue lease/loan payments at the time of the "loss";
    - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage.
    - (3) Security deposits not returned by the lessor;
    - (4) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
    - (5) Carry-over balances from previous loans or leases.

The most we will pay under Auto Loan/Lease Gap Coverage for an insured auto is 25% of the actual cash value of that insured auto at the time of the loss.

**XI. GLASS REPAIR – DEDUCTIBLE WAIVER**

SECTION III - PHYSICAL DAMAGE COVERAGE, D. Deductible, the following is added:

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

**XII. TWO OR MORE DEDUCTIBLES**

SECTION III -PHYSICAL DAMAGE COVERAGE, D. Deductible, the following is added:

If two or more "company" policies or coverage forms apply to the same accident:

- 1. If the applicable Business Auto deductible is the smallest, it will be waived; or
- 2. If the applicable Business Auto deductible is not the smallest, it will be reduced by the amount of the smallest deductible; or
- 3. If the loss involves two or more Business Auto coverage forms or policies the smallest deductible will be waived.

For the purpose of this endorsement "company" means the company providing this insurance and any of the affiliated members of the Mercury Insurance Group of companies.

**XIII. AMENDED DUTIES IN EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS**

The requirement in SECTION IV, BUSINESS AUTO CONDITIONS, A. Loss Conditions, 2. Duties In The Event Of Accident, Claim, Suit, Or Loss, a., In the event of "accident", you must notify us of an "accident" applies only when the "accident" is known to:

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

**XIV. WAIVER OF SUBROGATION**

SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions, 5. Transfer of Rights Of Recovery Against Others To Us, section is replaced by the following:

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.

**XV. UNINTENTIONAL ERROR, OMISSION, OR FAILURE TO DISCLOSE HAZARDS**

SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 2. Concealment, Misrepresentation, or Fraud, the following is added:

Any unintentional omission of or error in information given by you, or unintentional failure to disclose all exposures or hazards existing as of the effective date or at any time during the policy period shall not invalidate or adversely affect the coverage for such exposure or hazard or prejudice your rights under this insurance. However, you must report the undisclosed exposure or hazard to us as soon as reasonably possible after its discovery. This provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

**XVI. EMPLOYEE HIRED AUTO PHYSICAL DAMAGE**

SECTION IV – BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance, b. For Hired Auto Physical Damage Coverage, is replaced by the following:

- 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".

**XVII. PRIMARY AND NONCONTRIBUTORY IF REQUIRED BY CONTRACT**

SECTION IV – BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance, the following is added and supersedes any provision to the contrary:

- e. This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:
- (1) The additional insured is a Named Insured under such other insurance; and
  - (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

**XVIII. HIRED AUTO - COVERAGE TERRITORY**

SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 7. Policy Period, Coverage Territory, e. Anywhere in the world if:, is replaced by the following:

e. Anywhere in the world if:

- (1) A covered "auto" is leased, hired, rented or borrowed without a driver for a period of 30 days or less; and
- (2) 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.

**XIX. BODILY INJURY REDEFINED TO INCLUDE RESULTANT MENTAL ANGUISH**

SECTION V - DEFINITIONS, C. "Bodily Injury" is amended by adding the following:

"Bodily injury" also includes mental anguish but only when the mental anguish arises from other bodily injury, sickness, or disease.

*This Endorsement Changes The Policy. Please Read It Carefully*

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In consideration of an additional premium charge of \$6,660.00, Item 4 of the Declarations Page, LIMITS AND PREMIUM, is amended in part as follows:

LIMITS: \$4,000,000 Each Occurrence  
\$4,000,000 Aggregate Where Applicable

All other terms remain unchanged.

All other terms, conditions and warranties remaining unchanged.

This endorsement effective 02/25/2020  
forms part of Policy Number NHA248131  
issued to Jacob Construction and Design Inc  
by: RSUI Indemnity Company

Endorsement No.: 1  
Date Processed : 02/27/2020