

**AMENDMENT NO. 6  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
EMC PLANNING GROUP, INC.**

**THIS AMENDMENT NO. 6** to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and EMC Planning Group, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

**WHEREAS**, CONTRACTOR entered into a Professional Services Agreement with County on September 11, 2012 (hereinafter, "Agreement") to provide an Environmental Impact Report (EIR) for the Paraiso Hot Springs Resort (hereinafter, "Project"); and

**WHEREAS**, Agreement was amended by the Parties on March 22, 2013 (hereinafter, "Amendment No. 1", including Exhibit A-1 – Scope of Services/Payment Provisions), July 1, 2013 (hereinafter, "Amendment No. 2", including Exhibit A-2 – Scope of Services/Payment Provisions); May 21, 2014 (hereinafter, "Amendment No. 3"), October 28, 2014 (hereinafter, "Amendment No. 4"), and June 9, 2015 (hereinafter, "Amendment No. 5"); and

**WHEREAS**, CONTRACTOR has completed tasks through the circulation of the Project's Draft EIR for Public review under Exhibit A, Scope of Services/Payment Provisions, of the Agreement; and

**WHEREAS**, the Parties acknowledge that a total amount of \$22,383.00, originally approved for tasks under Exhibit A of the Agreement, is no longer necessary and will be reallocated to new tasks identified in Exhibit A-3, Scope of Services/Payment Provisions, of the Agreement for completion of the EIR for the Project; and

**WHEREAS**, new tasks will be included in Exhibit A-3 of the Agreement to allow CONTRACTOR to prepare a Revised Draft EIR to include significant new information to the Biological Resources, Cultural and Historic Resources, Hydrology, Traffic, Water Quality, and Noise sections, and to include evaluation of an additional alternative for completion of the Project; and

**WHEREAS**, additional time and funding are necessary; and

**WHEREAS**, the Parties wish to further amend the Agreement to extend the term to December 31, 2016 and to increase the amount by \$146,232.28 to continue to provide tasks identified in this Agreement and as amended by this Amendment No. 6.

Amendment No. 6 to Professional Services Agreement  
EMC Planning Group, Inc.  
Paraiso Hot Springs Resort EIR  
RMA – Planning  
Term: September 10, 2012 – December 31, 2016  
Not to Exceed: \$302,647.08

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

1. Amend the first sentence of Paragraph 1, "Services to be Provided", to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibits A, A-1, A-2 and A-3** in conformity with the terms of this Agreement.

2. Amend Paragraph 2, "Payments by County", to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1, A-2 and A-3**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$302,647.08.

3. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:

The term of this Agreement is from September 10, 2012 to December 31, 2016, unless sooner terminated pursuant to the terms of this Agreement.

4. Amend Paragraph 4, "Additional Provisions/Exhibits", by adding "Exhibit A-3, Scope of Services/Payment Provisions".

5. The "Paraiso Springs EIR Schedule (August 20, 2012)" referenced in Exhibit A – Scope of Services/Payment Provisions of this Agreement is hereby amended to extend through December 31, 2016, to conform to the amended term of the Agreement.

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

7. This Amendment No. 6 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.


8. The recitals to this Amendment No. 6 are incorporated into the Agreement and this Amendment No. 6.

Amendment No. 6 to Professional Services Agreement  
EMC Planning Group, Inc.  
Paraiso Hot Springs Resort EIR  
RMA – Planning  
Term: September 10, 2012 – December 31, 2016  
Not to Exceed: \$302,647.08

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 6 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

**COUNTY OF MONTEREY**

**CONTRACTOR\***

By:   
Director of Planning

EMC Planning Group, Inc.  
Contractor's Business Name

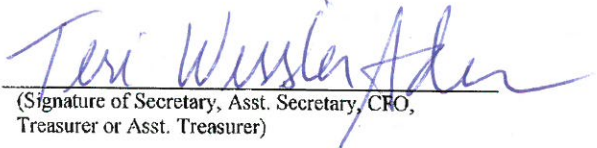
Date: 1/20/16

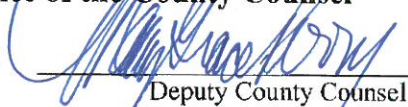
By:   
(Signature of Chair, President or Vice President)

Its: Michael J. Groves, President  
(Printed Name and Title)

Date: November 20, 2015

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

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

By:   
Deputy County Counsel

Its: Teri Wissler Adam, Secretary  
(Printed Name and Title)

Date: 12-1-2015

Date: November 20, 2015

**Approved as to Fiscal Provisions**

By:   
Auditor/Controller

Date: 11-23-15

**Approved as to Indemnity, Insurance Provisions**

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

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

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

Amendment No. 6 to Professional Services Agreement  
EMC Planning Group, Inc.  
Paraiso Hot Springs Resort EIR  
RMA - Planning  
Term: September 10, 2012 - December 31, 2016  
Not to Exceed: \$302,647.08

## EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

To Agreement by and between  
County of Monterey, hereinafter referred to as "County"  
and  
EMC Planning Group, Inc., hereinafter referred to as "CONTRACTOR"

### A. SCOPE OF SERVICES

A.1 CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

#### **Task 1 Administration, Management, and Project Restart**

- Prepare Project Schedule.
- Manage Agreement.
- Initiate subconsultants and coordinate the Project team.
- Provide California Environmental Quality Act (CEQA) consultation and management services for County.
- Obtain all new supplemental Project information (historic report and peer review, hydrogeologic report, wetland delineation, traffic report, alternative Project plans, and visual analysis by County staff) from County staff and/or the Project Applicant and distribute applicable documentation to team members.

#### **Task 2 Restart Meeting/Weekly Conference Calls**

- CONTRACTOR's Project Manager and Principal-in-Charge shall attend a Project restart meeting with County staff (Resource Management Agency (RMA) - Planning, Water Resources Agency (WRA), Environmental Health Bureau, and RMA - Public Works) to discuss the Project. Issues expected to be addressed include the following: scheduling, hydrogeology, biology, noise, visual resources, traffic (including the new traffic report by Hatch Mott MacDonald and RMA - Public Works' response to traffic comments on the Draft Environmental Impact Report (EIR)), and alternatives.
- CONTRACTOR shall budget to attend six (6), two (2) hour conference calls. Any additional meetings that may be required shall be requested through a formal request for Project Contingency usage.

#### **Task 3 Aesthetics and Visual Resource Revisions**

CONTRACTOR understands that the County will prepare a visual analysis of the proposed Project. CONTRACTOR shall incorporate the analysis and findings prepared by the County into the Aesthetics and Visual Resource section of the Revised Draft EIR.

#### **Task 4 Biological Resource Revisions (Wildlife Corridors)**

CONTRACTOR's Biologists shall provide wildlife movement evaluation for the Project site. The evaluation will include the following tasks:

- Review available technical reports and other information on regional wildlife movement corridor research.
- Determine revised level of impact due to proposed Project and development of mitigation measures, if needed.

## EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

The evaluation outlined above assumes that general information on proposed nighttime lighting, proposed site fencing, and domestic animal presence, etc. will be provided by the Project Applicant prior to evaluation. This evaluation will also utilize information from the traffic analysis (included in the Draft EIR) and updated noise analysis (included as part of this scope of services). This analysis will be incorporated into the Revised Draft EIR.

### **Task 5 Biological Resource Revisions (Wetland Delineation)**

CONTRACTOR's Biologists shall review the revised wetland delineation submitted by the Project Applicant. CONTRACTOR's Biologists shall determine revised level of impact due to proposed Project, and adjust mitigation measures, if needed. The new report shall be incorporated into the Revised Draft EIR Biological Resources section (for setting and impact analysis). This assumes that an accurate revised site-wide wetland delineation reflecting all anticipated wetland/waterway impacts for the current Project design shall be provided by the Project Applicant prior to evaluation. CONTRACTOR assumes all information in this report will be updated to include the new wetland/waterway and riparian vegetation impact areas for the current site plans, such as the proposed construction of three (3) bridges, removal of culverts, construction of an in-stream pond, and stream setback encroachment.

### **Task 6 Biological Resource Supplemental Analysis (Wildland Fire Clearance)**

CONTRACTOR's Biologists shall review relevant Project fire clearance comments on the Draft EIR and prepare an analysis of the Project impacts to habitat values associated with wildland fire clearance that will be required around all proposed structures. Because the development footprint is surrounded by vegetation, this required fire clearance/fuel modification area will impact habitats that were not previously analyzed. This task includes coordination with the County and with the California Department of Forestry and Fire Protection (CAL FIRE) to determine specific vegetation clearance requirements in the zero to thirty foot (0-30') zone and thirty to one hundred foot (30-100') zone surrounding all proposed structures.

This task also includes an estimate in Geographic Information Systems (GIS) of the acreage of the different vegetation types that would be impacted in the two (2) fire clearance zones. The GIS analysis will utilize the Paraiso Hot Springs Resort Vegetation Map prepared by Rana Creek (2003) for vegetation type and location, and the Vesting Tentative Map prepared by Hill Glazier Architects (2005, revised 05/18/2012). As these data sources are not available in a georeferenced format (CAD or GIS), the sources will need to "registered," or fit, to a georeferenced base map in ArcGIS. CONTRACTOR shall use aerial imagery data from ArcGIS Online as the base map source.

The following steps will be taken to identify areas of wildland fire clearance and estimate acreages of vegetation types that may be impacted by the clearance:

1. Georeference site map into ArcGIS to determine approximate building locations.
2. Digitize polygons around building clusters using site map as a guideline.

## EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

3. Digitize vegetation boundaries using Vegetation Map (as noted above) and CONTRACTOR - created GIS layer of woodland impact. (Existing woodland impact layer shows some vegetation from previous analysis but does not include all vegetation types.)
4. Create buffers of thirty feet (30') and thirty to one hundred feet (30 – 100').
5. Calculate acreage of buffer areas.
6. Summarize acreage of vegetation lost due to fire clearance requirements.

The GIS evaluation and CONTRACTOR's Biologist findings regarding potential wildland clearance impacts will be incorporated into the EIR Biological Resources section.

### **Task 7 Cultural Resource Revisions**

CONTRACTOR understands that a revised historic analysis will be prepared by Dana Painter for the Project Applicant and peer reviewed by the County Historic Resource Review Board. CONTRACTOR shall incorporate the findings into the Cultural Resources section of the Revised Draft EIR.

### **Task 8 Hydrogeology Revisions**

CONTRACTOR understands that Todd Groundwater is preparing a hydrogeologic study for the Project Applicant. CONTRACTOR's subconsultant, Balance Hydrologics, Inc. shall provide a peer review of the report prior to its incorporation into the Revised Draft EIR.

Should County staff determine that based on the additional environmental analysis, additional alternatives need to be considered, CONTRACTOR shall, upon request by the County and with approval, prepare a new scope of services and budget to prepare a new alternative and revise the Alternatives section of the Draft EIR to process an amendment to this Agreement for this additional service.

### **Task 9 Noise Revisions**

CONTRACTOR's subconsultant, Illingworth & Rodkin, Inc., shall prepare a noise analysis of the proposed Project for use in the Revised Draft EIR. The noise analysis will address construction noise, traffic noise, and operational noise from the resort.

### **Task 10 Traffic Revisions**

CONTRACTOR understands that Hatch Mott MacDonald is preparing a traffic impact analysis for the currently proposed Project for the Project Applicant. CONTRACTOR's subconsultant, Hexagon Transportation Consultants, Inc., shall provide a peer review of the report prior to its incorporation into the Revised Draft EIR.

Note: Should the traffic impact analysis identify trip generation that is significantly higher than what was analyzed in the previous Draft EIR, the Air Quality and Climate Change sections of the EIR may also need to be revised to reflect the higher emissions associated with additional trips. This scope of services does not include the revisions to these sections; a separate scope of services and budget will be prepared upon request by the County and with approval, an amendment to this Agreement will be processed for this additional service.

## EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### **Task 11 Additional Project Alternative Evaluation**

CONTRACTOR understands that the Project Applicant is proposing a new alternative which will be a variation of the existing reduced density alternative, but with retention of five (5) of the villas in Indian Valley. The alternative will remove structures proposed to be built on the hillside and locate them in the valley at a location already specified for development. CONTRACTOR shall evaluate this as a third (3<sup>rd</sup>) Project alternative in the Alternatives section of the Revised Draft EIR. CONTRACTOR assumes that no additional traffic counts or other modeling (e.g. air quality, greenhouse gas, biological impact, etc.) are necessary for this evaluation.

### **Task 12 Additional EIR Revisions**

CONTRACTOR shall review the Draft EIR in detail and make additional revisions to other sections of the EIR beyond those specified above (aesthetics, biological resources, cultural resources and historic resources; hydrology and water quality; noise, and traffic) to ensure that all applicable comments received on the Draft EIR are addressed in the Revised Draft EIR. Other revisions will include updates to the Introduction, References, Executive Summary, and the CEQA Considerations section for consistency with any changes resulting from the additional evaluation of biological resources, cultural resources, hydrogeology, traffic and noise as identified above. Note: It is anticipated that no revisions to the Air Quality and Climate Change sections of the EIR will be needed as a result of the new traffic impact analysis being prepared by Hatch Mott MacDonald. Should the new traffic analysis identify significantly more trips than previously analyzed, a separate scope of services and budget will be prepared upon request by the County and with approval, an amendment to this Agreement will be processed for this additional service. Refer to Task 10 above.

### **Task 13 Revised Administrative Draft EIR**

CONTRACTOR shall prepare and submit draft copies of the Revised Administrative Draft EIR. Figures, tables, and appendices will be included as necessary to support the recirculated EIR.

#### *Deliverables*

- Five (5) bound printed copies

### **Task 14 Revised Proof Draft EIR/Legal Counsel Meeting**

- Produce a Revised Proof Draft EIR, with appendices, which will include the technical memorandums.
- Attend Project meeting with County Counsel.

#### *Deliverables*

- Five (5) bound printed copies

### **Task 15 Public Review Revised Draft EIR**

- Based upon County staff comments on the Revised Proof Draft EIR, CONTRACTOR shall revise the document and produce the Public Review Revised Draft EIR, with appendices; and
- Prepare the Notice of Availability and the Notice of Completion.

## EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

- Compile reference documentation. Electronic copies will be provided when available. Hard copies will be provided where electronic copies are not available. Where the reference is on a website, only the reference to the website will be provided.
- Attend a meeting with County staff.

### *Deliverables*

- One (1) hard copy, single-sided Revised Draft EIR
- Forty-five (45) bound hard copies
- Ten (10) CD copies
- Compendium of reference materials (electronically or electronically and hard copy combination)

### **Task 16 Administrative Final EIR**

- CONTRACTOR shall prepare the response to comments received during the Public Comment period for the Revised Draft EIR and compile into the Administrative Final EIR. Prepare the Administrative Final EIR as a separate document (from the Revised Draft EIR) including a revised summary section, a list of all agencies and individuals commenting on the Revised Draft EIR, comments received during the Public Review period for the Revised Draft EIR, responses to those comments, and changes to the Revised Draft EIR.
- CONTRACTOR shall attend meeting with County staff.

### *Deliverables*

- Five (5) bound printed copies of the Administrative Final EIR

### **Task 17 Proof Final EIR/Legal Counsel Meeting**

- CONTRACTOR shall comprehensively revise the Administrative Final EIR and produce a proof Final EIR, with appendices, which will include the technical memorandums.
- CONTRACTOR shall attend Project meeting with County Counsel.

### *Deliverables*

- Five (5) bound printed copies

### **Task 18 Final EIR**

- CONTRACTOR shall prepare the Final EIR based upon County staff comments.

### *Deliverables*

- One (1) hard copy, single-sided of the Final EIR
- Forty (40) hard copies of the Final EIR
- Ten (10) CD copies of the Final EIR



## EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### **Task 19 Attend Planning Commission (PC) and Board of Supervisors (BOS) Meetings**

- CONTRACTOR shall attend one (1) PC meeting and be prepared to summarize the findings in the EIR and to answer questions.
- CONTRACTOR shall attend one (1) BOS meeting and be prepared to summarize the findings in the EIR and to answer questions.

Services detailed in Exhibit A-3 – Scope of Services/Payment Provisions of the Agreement shall be provided as noted. Additional services cannot be provided until the additional work is presented to the County and with County and Project Applicant approval, amended into this Agreement. Once the amendment to the Agreement is fully executed, CONTRACTOR will be authorized to proceed with the additional services.

**A.2** All written reports required under this Agreement must be delivered in written or hardcopy format as defined above to the following individual in accordance with the schedule above:

John H. Ford  
Planning Services Manager  
County of Monterey  
Resource Management Agency - Planning  
168 West Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901  
Email: fordjh@co.monterey.ca.us

## EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### MILESTONE PAYMENTS AND BUDGET

The proposed milestone payments are presented below.

<b>Milestones</b>	<b>Payment</b>
1. Administration, Management, Project Restart	\$7,950.00
2. Noise and Traffic Reports and Hydrologic Peer Review	\$45,058.50
3. Revised Administrative Draft EIR	\$51,803.00
4. Public Review Revised Draft EIR	\$13,385.00
5. Administrative Final EIR	\$15,340.00
6. Final EIR	\$10,765.00
7. PC/BOS Public Hearings	\$5,240.00
<b>Subtotal</b>	<b>\$149,541.50</b>

A detailed budget is provided as attached.

**EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

Paraiso Springs Resort Revised EIR Budget for Amendment No. 6 (08/18/15)									
EMC Planning Group Inc.									
Task	Sr. Principal Wissler Adam \$205.00	Sr. Planner Kinison Brown \$150.00	Senior Biologist Edwards \$150.00	Graphics/ GIS \$125.00	Production Administration \$95.00	Total Hours	Total Cost		
Staff									
Billing Rate (Per Hour)									
1. Administration, Management, Project Restart	4	45	0	0	0	4	\$7,950.00		
2. Restart Meetings/Weekly Conference Calls	12	28	4	0	0	45	\$7,355.00		
3. Aesthetics and Visual Resource Revisions	1	4	0	1	1	7	\$1,025.00		
4. Biological Resource Revisions (Wildlife Corridors)	1	2	10	2	0	15	\$2,255.00		
5. Biological Resource Revisions (Wetland Delineation)	1	2	12	2	0	17	\$2,555.00		
6. Biological Resource Supplemental Analysis (Wildland Fire Clearance)	1	4	12	12	4	33	\$4,485.00		
7. Cultural Resource Revisions	0	4	0	0	0	4	\$600.00		
8. Hydrogeology Revisions	1	24	8	10	4	47	\$6,635.00		
9. Noise Revisions	0	0	0	0	0	0	\$1,200.00		
10. Traffic Revisions	2	12	0	2	0	16	\$2,460.00		
11. Additional Project Alternative Evaluation	2	8	1	1	0	12	\$1,885.00		
12. Additional EIR Revisions (Based on DEIR Comments)	2	24	0	4	4	34	\$4,890.00		
13. Revised Administrative Draft EIR	16	100	0	0	8	124	\$19,040.00		
14. Revised Proof Draft EIR/Legal Counsel Meeting	12	28	0	2	10	52	\$7,860.00		
15. Public Review Revised Draft EIR	4	16	0	0	4	24	\$3,600.00		
16. Administrative Final EIR	8	85	0	0	10	103	\$15,340.00		
17. Proof Final EIR/Legal Counsel Meeting	8	20	0	0	0	28	\$4,640.00		
18. Final EIR	4	16	4	4	4	28	\$4,200.00		
19. PC/BOS Meetings	8	24	0	0	0	32	\$5,240.00		
Subtotal (Hours)	87	454	51	36	54	682			
Subtotal (Cost)	\$17,835.00	\$68,100.00	\$7,650.00	\$4,500.00	\$5,130.00		\$103,215.00		

Additional Costs	
Production Costs	\$3,500.00
Travel Costs	\$180.00
Postal/Deliverables	\$300.00
Miscellaneous	\$500.00
Administrative Overhead 10%	\$448.00
<b>Total</b>	<b>\$4,928.00</b>

Subconsultant Fees	
Illingworth & Rodkin, Inc. (Noise Report)	\$11,000.00
Balance Hydrologics, Inc. (Hydrogeologic Peer Review)	\$9,835.00
Hexagon Transportation Consultants, Inc.	\$16,800.00
Subconsultant Overhead 10%	\$3,763.50
<b>Total</b>	<b>\$41,398.50</b>

Total Costs	\$149,541.50
Credit for Exhibit A Tasks No Longer Required	\$22,383.00
<b>TOTAL INCREASE FOR AMENDMENT NO. 6</b>	<b>\$127,158.50</b>

EMC Planning Group, Inc.  
Paraiso Hot Springs Resort EIR  
RMA - Planning

**EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

**PAYMENT PROVISIONS**

Invoices for services / work products / deliverables under the AGREEMENT shall be submitted and shall identify the document or work product being delivered in accordance with the "Milestone Payments and Budget" and shall include the following:

**1. Invoice Coversheet**

**EMC Planning Group, Inc.**  
**Paraiso Hot Springs Resort Environmental Impact Report**

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

Invoice No. \_\_\_\_\_

*Original Agreement Term:* September 10, 2012 – June 30, 2013  
*Original Agreement Amount:* \$143,554.80 (\$143,554.80 base budget plus \$0.00 project contingency)  
*Amendment No. 1:* \$ 6,850.00 (\$ 6,850.00 base budget plus \$0.00 project contingency)  
*Extension of Term to June 30, 2014*  
*Amendment No. 2:* \$6,010.00 (\$ 6,010.00 base budget plus \$0.00 project contingency)  
*Amendment No. 3:* Extension of Term to December 31, 2014  
*Amendment No. 4:* Extension of Term to June 30, 2015  
*Amendment No. 5:* Extension of Term to June 30, 2016  
*Amendment No. 6:* \$146,232.28 (\$127,158.50 Base Budget plus \$19,073.78 project contingency)  
*Extension of Term to December 31, 2016*  
*Total Agreement Amount:* \$302,647.08 (\$283,573.30 base budget plus \$19,073.78 project contingency)

**This Invoice:**

**Budget**

\$	7,950.00	Task 1: Administration, Management, Project Restart	
\$	7,355.00	Task 2: Restart Meeting/Weekly Conference Calls	
\$	1,025.00	Task 3: Aesthetics and Visual Resource Revisions	
\$	2,255.00	Task 4: Biological Resource Revisions (Wildlife Corridors)	
\$	2,555.00	Task 5: Biological Resource Revisions (Wetland Delineation)	
\$	4,485.00	Task 6: Biological Resource Supplemental Analysis (Wildland Fire Clearance)	
\$	600.00	Task 7: Cultural Resource Revisions	
\$	6,635.00	Task 8: Hydrogeology Revisions	

**EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

\$	1,200.00	Task 9: Noise Revisions	_____
\$	2,460.00	Task 10: Traffic Revisions	_____
\$	1,885.00	Task 11: Additional Project Alternative Evaluation	_____
\$	4,890.00	Task 12: Additional EIR Revisions	_____
\$	19,040.00	Task 13: Revised Administrative Draft EIR	_____
\$	7,860.00	Task 14: Revised Proof Draft EIR/Legal Counsel Meeting	_____
\$	3,600.00	Task 15: Public Review Revised Draft EIR	_____
\$	15,340.00	Task 16. Administrative Final EIR	_____
\$	4,640.00	Task 17: Proof Final EIR/Legal Counsel Meeting	_____
\$	4,200.00	Task 18: Final EIR	_____
\$	5,240.00	Task 19: PC/BOS Meetings	_____
\$	4,928.00	<b><u>Additional Costs</u></b>	_____
	\$3,500.00	Production Costs	_____
	\$180.00	Travel Costs	_____
	\$300.00	Postal/Deliverables	_____
	\$500.00	Miscellaneous	_____
	\$448.00	Administrative Overhead 10%	_____
\$	41,398.50	<b><u>Subconsultant Fees</u></b>	_____
	\$11,000.00	Illingworth & Rodkin, Inc.	_____
	\$9,835.00	Balance Hydrologics, Inc.	_____
	\$16,800.00	Hexagon Transportation Consultants, Inc.	_____
	\$3,763.50	Subconsultant Overhead (10%)	_____
<b>TOTAL COSTS:</b>			<b>\$149,541.50</b>
<b>CREDIT FOR EXHIBIT A APPROVED TASKS NO LONGER NECESSARY:</b>			<b>\$ 22,383.00</b>
<b>GRAND TOTAL:</b>			<b>\$127,158.50</b>

Remaining Balance \$ \_\_\_\_\_

Approved as to Work/Payment: \_\_\_\_\_ Date \_\_\_\_\_  
*John H. Ford, Planning Services Manager*

All Invoices Are To Be Sent To:  
 Diana Lemos, Account Clerk  
 County of Monterey, Resource Management Agency - Planning  
 168 West Alisal Street, 2<sup>nd</sup> Floor, Salinas, CA 93901  
 Telephone: (831) 755-5220

## EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### 2. Invoice Detail

Prior to the CONTRACTOR exceeding a payment amount from the "Milestone Payments and Budget", CONTRACTOR shall contact the County's Planning Services Manager to obtain pre-approval to exceed the payment budget amount. If County approval is obtained, CONTRACTOR shall adjust the "Milestone Payments and Budget" payment amounts to reflect the overage and adjust the remaining "Milestone Payments and Budget" payment amounts to ensure that the total Project budget does not exceed the overall approved budget amount. CONTRACTOR shall forward the revised "Milestone Payments and Budget" with the pre-approved invoice to the County's Planning Services Manager for final approval for payment.

Subconsultant services must be invoiced based on the Subconsultant fee and the allowable overhead cost.

### 3. Transfer from Project Contingency Account

Transfer of funding from the Project Contingency Account (total contingency of \$19,073.78) requires the prior written approval of the Director of Planning and the Project Applicant.

A recommendation for such a transfer shall be presented in writing by CONTRACTOR to the Planning Services Manager, with a duplicate original delivered to the Contract Administrator, at the earliest possible date. The recommendation shall include:

- The dollar amount;
- The anticipated date the funded work would begin;
- The duration of the work;
- The entity (CONTRACTOR or subconsultant) to whom the funds would be transferred/allocated; and
- The justification for the expenditure.

Within five (5) working days of receipt of the recommendation, the Planning Services Manager and Contract Administrator will have contacted CONTRACTOR to discuss its recommendation and will have made a recommendation to the Director of Planning, or in the Director's absence, designee. Within ten (10) working days thereafter, the Director of Planning or designee will approve, deny, or approve a revised version of the recommendation received from CONTRACTOR, and will send a written decision to the Project Applicant, and CONTRACTOR.

Unless the recommended transfer is denied by the Director or designee, the Director of Planning or designee will ask the Project Applicant to make a decision within five (5) working days regarding the recommended transfer from the Project Contingency Account. If necessary, reasonable efforts will be made to reach a compromise.

Upon receipt of the Project Applicant's written approval by the Director of Planning or designee, payment for the funding transfer will be made. At the same time, a letter authorizing the work funded by the approved transfer will be sent to CONTRACTOR.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
4/30/2015

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 Carmel Insurance Agency San Carlos 2 NW of 8th P.O. Box 6117 Carmel CA 93921-6117	CONTACT NAME: Monique Thanos, CIC
	PHONE (A/C, Ho, Ext): (831) 624-1234 FAX (A/C, No): (831) 624-4605
	E-MAIL ADDRESS: moniquet@carmelinsurance.com
INSURED EMC Planning Group, Inc. 301 Lighthouse Avenue Suite C Monterey CA 93940	INSURER(S) AFFORDING COVERAGE
	INSURER A: Colony Insurance Company
	INSURER B: Nationwide Mutual
	INSURER C:
	INSURER D:
	INSURER E:
	INSURER F:

COVERAGES CERTIFICATE NUMBER: GL - Prof - Auto REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Aggregate Limits Include <input type="checkbox"/> Errors & Omissions GENL AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC		EPR302184	5/1/2015	5/1/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMPROP AGG \$ 3,000,000 DEDUCTIBLE PER OCCURR \$ 10,000
	B		ACP3047177663	5/1/2015	5/1/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTIONS					EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A			WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Errors & Omissions Retroactive Date 8/22/02		EPR302184	5/1/2015	5/1/2016	EACH CLAIM LIMIT 1,000,000 DEDUCTIBLE EACH CLAIM 10,000

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

RE: All Work Performed on Behalf of Certificate Holder. Certificate Holder is Additional Insured under General Liability per attached Endorsement EV242-0312. Primary Wording & Waiver of Subrogation per attached endorsements EV200-1012 & EV152-0609. Certificate Holder is Additional Insured under the Auto Liability per CA2048 2/99. Primary Wording Under Policy Form CA0001 03/10; Conditions, Section B. 5. Other Insurance. Waiver of Subrogation under Form AC0101A 03/10.

## CERTIFICATE HOLDER

## CANCELLATION

County of Monterey Its agents, officers & employees Contracts/Purchasing Department 168 West Alisal Street 3rd Floor 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 M Little, CIC/MRT



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
7/8/2015

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).

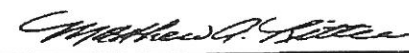
PRODUCER Carmel Insurance Agency San Carlos 2 NW of 8th P.O. Box 6117 Carmel CA 93921-6117	CONTACT NAME: Monique Thanos, CIC	
	PHONE (A/C, No, Ext): (831) 624-1234 FAX (A/C, No): (831) 624-4605 E-MAIL ADDRESS: moniquet@carmelinsurance.com	
INSURED EMC Planning Group, Inc. 301 Lighthouse Avenue Suite C Monterey CA 93940	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Republic Indemnity	9999
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER: 15/16 REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDC SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS									
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$								
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$								
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$								
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y N/A	18205505	7/10/2015	7/10/2016	X	<table border="1"> <tr> <th>PER STATUTE</th> <th>OTH-ER</th> </tr> <tr> <td>E.L. EACH ACCIDENT</td> <td>\$ 1,000,000</td> </tr> <tr> <td>E.L. DISEASE - EA EMPLOYEE</td> <td>\$ 1,000,000</td> </tr> <tr> <td>E.L. DISEASE - POLICY LIMIT</td> <td>\$ 1,000,000</td> </tr> </table>	PER STATUTE	OTH-ER	E.L. EACH ACCIDENT	\$ 1,000,000	E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000	E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
PER STATUTE	OTH-ER														
E.L. EACH ACCIDENT	\$ 1,000,000														
E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000														
E.L. DISEASE - POLICY LIMIT	\$ 1,000,000														

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 RE: All Work Performed on Behalf of Certificate Holder

<b>CERTIFICATE HOLDER</b>  County of Monterey Its agents, officers & employees Contracts/Purchasing Department 168 West Alisal Street 3rd 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  M Little, CIC/AAL 



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

## **PRIMARY AND NON-CONTRIBUTORY ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
CONTRACTORS POLLUTION LIABILITY COVERAGE PART

### **SCHEDULE**

**Name Of Additional Insured Person(s) or Organization(s):**

Where Required By Written Contract

**SECTION III – WHO IS AN INSURED** within the Common Policy Provisions is amended to include as an additional insured the person(s) or organization(s) indicated in the Schedule shown above, but solely as respects "claims" caused in whole or in part, by "your work" for that insured by you, or by those acting on your behalf.

This insurance shall be primary and non-contributory, but only in the event of a named insured's sole negligence.

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

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

## **AMENDED WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
 CONTRACTORS POLLUTION LIABILITY COVERAGE PART  
 ERRORS AND OMISSIONS LIABILITY COVERAGE PART  
 THIRD PARTY POLLUTION LIABILITY COVERAGE PART  
 CLEANUP COSTS – YOUR LOCATION COVERAGE PART

### **SCHEDULE**

<b>Name Of Person(s) or Organization(s):</b>
Where Required By Written Contract
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**SECTION VI – COMMON CONDITIONS, 17. Transfer Of Rights Of Recovery Against Others To Us** within the Common Policy Provisions is amended by the addition of the following:

Solely as respects the person(s) or organization(s) indicated in the Schedule shown above, we waive any right of recovery we may have against the person(s) or organization(s) indicated in the Schedule shown above because of payments we make for "damages" arising out of your ongoing operations or "your work" performed under a written contract with that person(s) or organization(s) and included in the "products-completed operations hazard".

However, this waiver shall not apply to "damages" resulting from the sole negligence of the person(s) or organization(s) indicated in the Schedule shown above.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

EMC Planning Group, Inc.

Policy #: ACP3047177683

Policy Term: 5/01/15 to 5/01/16

CA 20 48 (02-89)

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

**DESIGNATED INSURED**

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM**

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

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

**SCHEDULE**

Name of Person(s) or Organization(s):

The County of Monterey, its agents, officers & employees.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to the endorsement.)

Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in Section II of the Coverage Form.

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CA 20 48 (02-99)

## 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.

<b>19</b>	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.

### 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 exclusion does not apply to liability assumed under a si-detraction 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 subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

#### 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 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) Wartlike 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".
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.

### 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 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 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;
  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.

**All terms and conditions of this policy apply unless modified by this endorsement.**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## BUSINESS AUTO ADVANTAGE ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

MOTOR CARRIER COVERAGE FORM

### A. NEWLY ACQUIRED OR FORMED ENTITIES

The Named Insured shown in the Declarations is amended to include any organization you newly acquire or form, other than a partnership, joint venture, or limited liability company, and over which you maintain ownership or majority (more than 50%) interest; if there is no other similar insurance available to that organization. Coverage under this provision is afforded until the 180<sup>th</sup> day after you acquire or form the organization or the end of the policy period, whichever is later.

### B. TEMPORARY SUBSTITUTE AUTOS - PHYSICAL DAMAGE COVERAGE

The following is added to paragraph C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos of the - COVERED AUTOS SECTION:

If Physical Damage Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Physical Damage Coverage:

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

The coverage that applies is the same as the coverage provided for the vehicle being replaced.

### C. EMPLOYEES AS INSUREDS - NONOWNED AUTOS

The following is added to paragraph A.1. Who is An Insured of the LIABILITY COVERAGE SECTION:

- d. 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 - BAIL BONDS

Paragraph A.2.a. (2) of the LIABILITY COVERAGE SECTION is revised as follows:

- (2) Up to \$2,500 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.

### E. SUPPLEMENTARY PAYMENTS - LOSS OF EARNINGS

Paragraph A.2.a.(4) of the LIABILITY COVERAGE SECTION is revised as follows:

- (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.

### F. FELLOW EMPLOYEE - OFFICERS, MANAGERS, AND SUPERVISORS

Paragraph B.5.A. Fellow Employee in the LIABILITY COVERAGE SECTION is replaced as follows;

- A. "Bodily injury" to 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. This exclusion does not apply to an "insured" who occupies a position as an officer, manager, or supervisor.

### G. PERSONAL EFFECTS AND PROPERTY OF OTHERS EXTENSION

- 1. Paragraph B.6. Care, Custody or Control of the LIABILITY COVERAGE SECTION, does not apply to "property damage" to property, other than your property, up to an amount



not exceeding \$250 in any one "accident". Coverage is excess over any other valid and collectible insurance.

2. The following paragraph is added to A.4. Coverage Extensions of the – PHYSICAL DAMAGE COVERAGE SECTION:

c. We will pay up to \$500 for your property that is lost or damaged as a result of a covered "loss", without applying a deductible. Coverage is excess over any other valid and collectible insurance.

#### H. HIRED AUTO PHYSICAL DAMAGE

If covered "auto" designation symbols 1,8,61 or 68 apply to Liability Coverage and if at least one "auto" you own is covered by this policy for Comprehensive, Specified Causes of Loss, or Collision coverages, then the Physical Damage coverages provided are extended to "autos" you lease, hire, rent or borrow without a driver; and provisions in the Business Auto Coverage Form applicable to Hired Auto Physical Damage apply. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. Any Comprehensive deductible does not apply to fire or lightning.

#### I. EXPANDED TOWING COVERAGE

We will pay up to:

1. \$100 for a covered "auto" you own of the private passenger type, or
2. \$250 for a covered "auto" you own that is not of the private passenger type,

for towing and labor costs incurred each time the covered "auto" is disabled. However, the labor must be performed at the place of disablement.

This coverage applies only for an "auto" covered on this policy for Comprehensive or Specified Causes of Loss Coverage and Collision Coverages.

#### J. AUTO LOAN OR LEASE COVERAGE

1. In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the loan or lease, including up to a maximum of \$500 for early termination fees or penalties, for your covered "auto" less:
  - a. The amount paid under the - PHYSICAL DAMAGE COVERAGE SECTION of this 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 refunded by a lessor;
- 4) Costs of extended warranties, Credit Life insurance, Health, Accident, or Disability insurance purchased with the lease; and
- 5) Carry-over balances from previous leases.

2. This coverage only applies to a "loss" which is also covered under this policy for Comprehensive, Specified Causes of Loss, or Collision coverage.
3. Coverage does not apply to any unpaid amount due on a loan for which the covered "auto" is not the sole collateral.

#### K. RENTAL REIMBURSEMENT COVERAGE

1. This coverage applies only to a covered "auto" for which Physical Damage Coverage is provided on this policy.
2. We will pay for rental reimbursement expenses incurred by you for the rental of an "auto" because of "loss" to a covered "auto". Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto." No deductibles apply to this coverage.
3. We will pay only for those expenses incurred during the policy period beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, with the lesser of the following number of days:
  - a. The number of days reasonably required to repair or replace the covered "auto". If "loss" is caused by theft, this number of days is added to the number of days it takes to locate the covered "auto" and return it to you.
  - b. The number of days shown in the Schedule.
4. Our payment is limited to the lesser of the following amounts:
  1. Necessary and actual expenses incurred.
  2. \$75 for any one day or for a maximum of 30 days.
5. This coverage does not apply while there are spare or reserve "autos" available to you for your operations.

6. If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided for under the PHYSICAL DAMAGE COVERAGE Coverage Extension.
7. Coverage does not apply to any covered "auto" for which coverage is provided by endorsement form CA9923 on this policy.

**L. EXPANDED TRANSPORTATION EXPENSE**

Paragraph A.4.a. of the PHYSICAL DAMAGE COVERAGE SECTION is replaced by 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 only pay for those covered "autos" for which you carry 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 us or we pay for its "loss".

**M. EXTRA EXPENSE – STOLEN AUTOS**

The following paragraph is added to Section A.4. of the – PHYSICAL DAMAGE COVERAGE SECTION:

- c. We will pay for up to \$5,000 for the expense of returning a stolen covered "auto" to you. We will pay only for those covered "autos" for which you carry Comprehensive or Specified Causes of Loss Coverage

**N. NEW VEHICLE REPLACEMENT COST**

The following is added to paragraph C.Limit of Insurance of the PHYSICAL DAMAGE COVERAGE SECTION:

5. The provisions of paragraphs 1.and 3. do not apply to a covered "auto" of the private passenger type or a vehicle with a gross vehicle weight of 20,000 pounds or less which is a new vehicle.

In the event of a total "loss" to your new vehicle to which this coverage applies, we will pay at your option:

- a. The verifiable new vehicle purchase price you paid for your damaged vehicle, not including any insurance or warranties purchased;
- b. If it is available, the purchase price, as negotiated by us, of a new vehicle of the same make, model, and equipment or the most similar model available, not including any furnishings, parts, or equipment not installed by the manufacturer or manufacturers' dealership; or .
- c. The market value of your damaged vehicle, not including any furnishings, parts, or equipment not installed by the manufacturer or manufacturer's dealership.

We will not pay for initiation or set up costs associated with loans or leases

In this endorsement, a new vehicle means an "auto" of which you are the original owner that has not been previously titled and which you purchased less than 365 days before the date of the "loss".

**O. BLANKET WAIVER OF SUBROGATION**

The following is added to paragraph 5. Transfer Of Rights Of Recovery Against Others To Us of – BUSINESS AUTO and MOTOR CARRIER CONDITIONS SECTIONS:

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" because of payments we make for damages under this coverage form.

**All terms and conditions of this policy apply unless modified by this endorsement.**